2401.

SUPREME COURT OF THE UNITED STATES.

No. 152.

WILLIAM W. TEAL, PLAINTIFF IN ERROR,

VS.

MARY C. FELTON, BY HER NEXT FRIEND, CHARLES T. HICKS.

IN ERROR TO THE SUPREME COURT, OF THE STATE OF NEW YORK.

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[Gideon, Print.]

United States of America, *ss.*

To Mary C. Felton, by her next friend, Charles T. Hicks, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of January next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of New York, for the county of Onondaga, wherein William W. Teall is plaintiff, and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Roger B. Taney, chief justice of the Supreme Court of the United States, this 8th day of January, in the year of our Lord one thousand eight hundred and forty-nine, to wit, the 25th day of June, in said year.

F. G. JEWETT,
Chief judge of the court of appeals of the State of New York.

Supreme Court of the United States of America.

William W. Teall, plaintiff in error,
vs.
Mary C. Felton, by Charles T. Hicks, her next friend, defendant in error.

State of New York,
Onondaga county, ss.

Stephen S. Thorn, of the city of Syracuse, in the county and State aforesaid, being duly sworn, deposes and says: That on the 16th day of November, 1849, he lodged in the clerk's office of Onondaga county, State aforesaid, that being the place in which the judgment in this cause was docketed, three copies of the writ of error in this cause, endorsed Supreme Court of the United States, William W. Teall, plaintiff in error, vs. Mary C. Felton, by Charles T. Hicks, her next friend, defendant in error; copy writ of error lodged in pursuance of the statute of the United States in such case made and provided, for the above named Mary C. Felton, one to Charles T. Hicks, and one to Gardner & Burdick, attorneys for defendant in error, in the supreme court and court of appeals, each of said copies being endorsed in the same manner, except as to the person to whom it was directed, and signed D. Gott, attorney for plaintiff in error.

And this deponent further says, that on the 27th day of July, A. D. 1849, he served a copy of the citation annexed on Charles T. Hicks, the next friend in this cause, by handing him said copy, and showing him the original. That on the 17th day of November, A. D. 1849, he served a copy of the citation annexed in the same manner on Gardner

& Burdick, the attorneys for the defendants in error, in the supreme court and court of appeals in the State of New York; and on the 16th day [of] November, A. D. 1849, he left a copy of the citation annexed in the clerk's office of Onondaga county aforesaid, directed to Mary C. Felton. That each of the foregoing copies of the citation hereto annexed, was endorsed with the title of the cause, copy citation, and the name of D. Gott, attorney for plaintiff in error, signed thereto.

STEPHEN S. THORN.

Subscribed and sworn to before me, this 7th day of December, 1849.

R. WOOLWORTH, *Com'r of deeds,*
and Justice of the Peace.

STATE OF NEW YORK,
Onondaga county, clerk's office, ss:

I certify, that Richard Woolworth, esq., is a justice of the peace and commissioner of deeds in and for said county, residing in said county, commissioned and sworn, and that his signature above is genuine.

[SEAL.] Given under my hand and the seal of said county, December 7, 1849. T. W. SMITH, *Clerk.*

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the justices of the
[L. S.] supreme court of the State of New York, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court, before you, or some of you, between William W. Teall, plaintiff in error, and Mary C. Felton, by her next friend, Charles T. Hicks, a manifest error hath happened, to the great damage of the said William W. Teall, as is said, and as appears by his complaint. We being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the justices of the Supreme Court of the United States at the Capitol, in the city of Washington, together with this writ, so that you have the same at the said place, before the justices aforesaid, on the second Monday of January next; that the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this twenty-fourth day of July, in the year of our Lord one thousand eight hundred and forty-nine, and of the independence of the United States the seventy-fifth.

ALEXANDER GARDINER,
Clerk of the circuit court of the United States of America,
for the southern district of New York, in the second circuit.

D. GOTT,
Att'y for pl'ff in error.

State of New York,
Onondaga county, clerk's office, ss:

The return to this writ appears by the schedule hereto annexed. The answer of the justices of the supreme court of the State of New York, the record and proceedings of the plaintiff, whereof mention is within made, follow in these words, to wit:

Pleas before the supreme court of the State of New York, the 6th day of July, in the year of our Lord one thousand eight hundred and forty-eight.

State of New York, to wit, the people of the State of New York have sent to their judges of their supreme court of the State of New York, their writ close in these words, to wit, "the people [L. S.] of the State of New York to the justices of the supreme court of the State of New York.

Because in the record and proceedings, and also in the giving of judgment in a certain cause, which was in our said court before you, between Wm. W. Teall, plaintiff in error, and Mary C. Felton, by her next friend, Charles T. Hicks, defendant in error, in a plea of trover as is said, manifest error hath intervened to the great damage of the said William W. Teall, as he complains; and we being willing that the error, if any, should be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then without delay you distinctly and openly send, under your seal, the record and proceedings aforesaid in this behalf, with all things touching or in any wise concerning the same, to our judges of our court of appeals, on the 6th day of July next, together with this writ; that the record and proceedings aforesaid being inspected by our said court of appeals, we may cause to be done for correcting that error what of right ought to be done.

Witness Freeborn G. Jewett, esq., chief judge of our said court, at the City Hall in the city of Rochester, on the third Tuesday of June, 1848.

CHARLES S. BENTON,
Clerk court of appeals.
SEDGWICK & DILLAYE,
Attorneys.

Court of appeals.

William W. Teall,
ads.
Mary C. Felton, by her next friend, Chas. T. Hicks.

SEDGWICK & DILLAYE,
Attorneys for plaintiff in error.

Writ of error.

"Allowed, and let all proceedings on the execution upon the judgment recited in the within writ of error, if any shall have been issued, be stayed, and let no execution, if none has been issued, be issued until judgment be rendered on the within writ of error."

Dated Syracuse, June 22, 1848.

D. PRATT, *Justice*.

The return to this writ appears by the following schedule, to wit:

Pleas before the supreme court of the State of New York, the first Monday of January, one thousand eight hundred any forty-seven.

The people of the State of New York have sent to their judges of their county court, in and for the county of Onondaga, their writ close in these words, to wit:

The people of the State of New York, to the judges of our county court, in and for the county of Onondaga, greeting:

[L. S.] Because in the record and proceedings, and also in the giving of judgment in a plaint, which was in our late court of common pleas of said county, before the judges thereof, between William W. Teall, plaintiff in error, and Mary C. Felton, by her next friend, Charles T. Hicks, of a plea of trover, manifest error hath intervened to the great damage of the said William W. Teall, as by his complaint we are informed. We being willing that the error, if any there be, should in due manner be corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be thereupon given, then you send to our justices of the supreme court of the fifth judicial district, distinctly and openly, under your seal, the record and proceedings of the plaint aforesaid, with all things concerning the same, and this writ, so that they may have them before the justices of the supreme court of the fifth judicial district, wheresoever the said court may next meet, to hear and determine causes in and for the county of Onondaga; that the record and proceedings aforesaid being inspected, we may cause to be further done thereupon, for correcting that error, what of right and according to law and custom of the State of New York ought to be done.

Witness Daniel Pratt, esq., one of the justices of the supreme court of the fifth judicial district, the tenth day of July, A. D. 1847.

V. W. SMITH, *Clerk*.
STEPHEN D. DILLAYE, *Att'y*.

"Endorsement on writ."

Supreme Court.

WILLIAM W. TEALL
vs.
MARY C. FELTON, by Charles T. Hicks, her next friend.
} Writ of error.

STEPHEN D. DILLAYE, *Att'y*.

(Filed July 19, 1847.)

I hereby allow the within writ of error, and the proper bond having been executed to justify a stay of execution, I order a stay of proceedings on the execution upon the judgment mentioned in the within writ, if one shall have been issued, or a stay of the issuing of one, if none have been issued, until judgment shall be rendered on the within writ of error. Dated this 17th day of July, 1847.

JAMES R. LAWRENCE,
Judge Onon. county court, counsellor, &c.

To the justices of the supreme court of the fifth judicial district of the State of New York.

[L. S.] The return to this writ appears by the schedule hereto annexed. The answer of the judge of the county court in and for the county of Onondaga; the record and proceedings of the plaint, whereof mention is within made, follow in these words, to wit:

Onondaga common pleas.

Pleas in the court of common pleas, held at the court-house in Syracuse, in and for the county of Onondaga, before the judges of the same court of May term, in the year one thousand eight hundred and forty-seven.

Witness. DANIEL PRATT, *First judge.*
T. W. SMITH, *Clerk.*

ONONDAGA COUNTY, *ss:*

Be it remembered, that heretofore, to wit, on the 6th day of May, 1847, Richard Woolworth, esq., a justice of the peace, before whom this cause was tried, brought into the said court of common pleas, in and for the said county, and filed his certain return to a writ of certiorari, wherein William W. Teall was plaintiff in error, and Mary C. Felton by her next friend, Charles T. Hicks, was defendant in error, issued out of the said court, and directed to the said justice, which said return is in words and figures following, to wit:

ONONDAGA COUNTY, *ss:*

I, Richard Woolworth, a justice of the peace of said county, in the writ hereto annexed named, do certify to the judges of the court of common pleas of said county, that before the coming to me of the said writ, to wit, on the 12th day of February last, I issued a summons returnable before me, at my office in Syracuse, on the 19th day of February, then instant, in favor of Mary Felton, by her next friend, Charles T. Hicks, against William W. Teall, that on the day and year last aforesaid, the parties appeared before me, at my office in Syracuse; and the plaintiff declared against the defendant in trover, for converting one newspaper, called the Michigan Expositor, of the value of six cents, also one newspaper wrapper, of the value of six cents, the property of the plaintiff.

To which declaration the defendant pleaded the general issue. The cause was then adjourned from time to time, until the 15th day of March last, at 1 o'clock, p. m., at my office, in Syracuse, aforesaid, at which time and place last aforesaid, the parties again appeared before me, and the plaintiff required that the said cause shall be tried by a jury; that I issued a venire, and the following persons are summoned and sworn as jurors in said cause, to wit, D. G. Johnson, John H. Rector, Henry G. Abbott, Roswell Green, John Radigan, and Joseph Greely; and the said plaintiff, to maintain the issue on his part, called a witness, Charles D. Bickford, who being duly sworn, said, that a paper came to the post office, in Syracuse, directed to the plaintiff; that witness was a clerk in the post office; that it came from the State of Michigan; that it was the Michigan Expositor; that it came there within six weeks last past, thinks about three weeks since, and that it was before this suit was commenced; put the paper in the box of Charles T. Hicks; Mr. Hicks called for the contents of his box, and witness handed out the paper, and called the postage 10 or 15 cents; Mr. Hicks said he would not take it, and witness put it back into the box; the postage was marked on it at the Syracuse post office. Newspapers usually come without the postage marked upon them; the regular postage on the paper from Michigan to Syracuse is one and one half cents.

On his cross examination, witness stated that defendant is, and was at the time, postmaster at Syracuse. The paper came in the regular mail; that there was an initial upon the wrapper of the paper, it was distinct from the direction, and no part of it; thinks it was on so when it came to the office.

Defendant asked the question, did you under the post office law suppose the mark on the paper was a communication? The question was objected to by the counsel for the plaintiff, and the objection sustained by the court; the witness further testified that the paper was detained by the direction of defendant as postmaster; that it is the general custom to charge on newspapers having on them a single initial; it was under such custom that letter postage was charged on this paper.

Witness being re-examined by plaintiff's counsel, stated that there was a single letter on the wrapper; witness marked it as charged, solely on the ground that the letter was on it; can't say who marked it; it was marked so because it weighed that amount. If the paper weighed ½ ounce, postage would be 10 cents; if over ½ ounce, 20 cents; the paper would [have] weighed at least ½ ounce.

Here the defendant objected to the production of further evidence on the part of the plaintiff, on the ground that the court had no jurisdiction; this objection was overruled, and the plaintiff called as a witness Harmon W. Van Buren, who being duly sworn, said that he was present at the post office when Mr. Hicks called for the paper for plaintiff. Mr. Hicks called witness in, he went to the hole and asked Raynor if he had any thing in his box; he said there was, and handed out this paper, and said the postage was 15 cents. Mr. Hicks said I tender you the postage, and extended his hand with money in it; there was quarter of dollars in his hand, and also cents, and offered to pay the ordinary postage on a newspaper; thinks he offered 1½ cents; Mr. Hicks said he offered the legal newspaper postage from Michigan to Syracuse. Raynor refused to deliver it on those terms; he charged 15 cents, and said he could not have it unless he paid that amount. It was admitted [by] the defendant that Raynor was a clerk in the post office at Syracuse, and that Mr. Hicks had authority to demand the paper for the plaintiff, and that it was of the value of six cents.

The plaintiff here rested his cause; and the defendant moved for a nonsuit; which motion was denied by the court.

The defendant then offered in evidence the annexed circular, marked (A,) from the Post Office Department; also the Post Office Laws of 1845.

(*Circular A.*)

"To postmasters:

I am directed by the Postmaster General to call your special attention to the multiplied and increasing attempts to violate the laws and defraud the revenue, by writing on the wrappers, margin, or other portion of newspapers, pamphlets, and magazines, sent by mail.

The cheap postage system has removed every reasonable excuse for violating or evading the law, and too much vigilance cannot be exercised by postmasters to detect and punish the offenders; and public sentiment, when well informed, will not fail to sustain you in the faithful discharge of this duty, which is as imperative upon you as any other. That frauds of this kind may be detected and traced to their origin, you are particularly instructed to stamp, or mark in writing, any transient (by which is meant all not regularly sent to subscribers,) newspapers, pamphlets, or magazines, with the name of the office and the amount of postage.

The wrappers of all such newspapers, pamphlets, and magazines, when they have reached their destination, should be carefully removed, and if upon inspection found to contain any manuscript or memorandum of any kind, either written or stamped, or by marks or signs made in any way either upon any newspapers, printed circular, price current, pamphlet, or magazine, or the wrapper in which it is enclosed, by which information shall be asked for or communicated, except the name and address of the person to whom it is directed, such newspaper, printed circular, price current, pamphlet, or magazine, with the wrapper in which it is enclosed, shall be charged with letter postage by weight. If the person to whom the newspaper, printed circular, price current, pamphlet, or magazine, is directed, refuses to pay such letter postage thereon, the postmaster will immediately transmit the same to the office from whence it was forwarded, and request the postmaster thereof to prosecute the same for the penalty of five dollars, as prescribed by the 30th section of the act of 1825. Suits may be brought either in district courts or before State magistrates having civil jurisdiction in actions of debt for this amount under the respective State laws, the name of the sender written or stamped either upon the newspaper, printed circular, price current, pamphlet, or magazine, or the wrapper in which it is enclosed, communicates such information, as subjects it to letter postage and the consequential penalties if such postage is not paid at the place of its destination. The diminution of the revenue of the Department under the cheap postage system, and the great and increasing demand for additional mail facilities throughout the country, whose territory now extends to the Pacific, render it absolutely necessary not only that every cent of lawful revenue be collected and accounted for, but that the utmost vigilance should be exercised for the prevention of fraud, and the sure and speedy infliction of the proper penalty upon the offender. This can only be accomplished by the strictest attention of postmasters, who are the sworn agents of the Department, and bound to see the laws faithfully administered.

W. J. BROWN,
2d Assistant Postmaster General.

POST OFFICE DEPARTMENT, *Dec'r* 4, 1846.

The cause was then submitted to the jury, who were kept together in a convenient place under the charge of a constable, for that purpose duly sworn, until they had agreed upon their verdict, and when they had agreed upon their verdict, they returned into court and delivered the same to me publicly, whereby they find for the plaintiff six cents damages. Whereupon I, the said justice, did render judgment against the said defendant for the said six cents damages, and two dollars eighty-nine cents costs. All which I send with the papers, pleadings, and other things touching the aforesaid proceedings and judgment, as by the said writ I am commanded.

Dated April 10th, 1847.

R. WOOLWORTH, *Justice of the Peace.*

But because the said court now *hear* is not yet advised what judgment to give of and upon the premises, day is therefore given to the said parties to be before the said judges at the court-house, in the village of Syracuse aforesaid, on the fourth Monday of May, 1847, to hear their judgment; and because the said court now here is not yet advised thereof, the same day is given to the parties aforesaid, there, &c.

At which day and place, to wit, in the said term of May, before the judges aforesaid, come the parties aforesaid, by their attorneys aforesaid, and all and singular the premises aforesaid being fully seen and understood by the said court now here, and mature deliberation being thereupon had, it seemeth to the said court now here, that there is not any error either in the giving of judgment aforesaid, by the said justice in manner aforesaid, nor in any of the process or proceedings therein before the said justice in the plea aforesaid, but that the same and every part thereof are in all respects valid and legal, the said writ of certiorari to the contrary thereof notwithstanding. It is therefore considered by the said court now here, that judgment aforesaid, given by the justice aforesaid, in manner aforesaid, be and the same is hereby, in all things, affirmed, and that the said Mary C. Felton, by Charles T. Hicks, her next friend, recover against the said William W. Teall the damages and costs aforesaid, in form aforesaid adjudged, amounting to two dollars and ninety-five cents.

And it is further considered by the court now here that the said Mary C. Felton, by Charles T. Hicks, her next friend, do also recover against the said William W. Teall twenty dollars for her costs and charges, laid out and expended by the said Mary C. Felton, by her next friend, Charles T. Hicks aforesaid, in and about her defence to the prosecution of the said writ of certiorari in this behalf, which amount in the whole to twenty-two dollars and ninety-five cents, and that the said Mary C. Felton, by her next friend, Charles T. Hicks, have execution therefor, &c.

Judgment signed this 15th day of June, 1847.

DANIEL PRATT, *First Judge.*

Filed June 16, 1847, 10 a. m.

All which is respectfully returned.

[L. S.] Witness James R. Lawrence, esq., county judge of the county of Onondaga, and the seal of said court, the second Monday of August, 1847.

V. W. SMITH, *Clerk.*

(Fees $1 50.)
(In error.)

Of the tenth day of July, A. D. 1847, afterwards, to wit, on the twenty-fourth day of August, of the same year, before the justices of the supreme court of the State of New York, comes the said William W. Teall, by Stephen D. Dillaye, his attorney, and says that, in the record and proceedings aforesaid, and also in giving the judgment of the said justice of the peace aforesaid, there is manifest error in this, to wit, that the declaration aforesaid, and the proofs therein, are not sufficient in law for the said Mary C. Felton to have and maintain her aforesaid action thereof against the said William W. Teall. There is also error in this, to wit, that by the record aforesaid it appears that the judgment aforesaid, in form aforesaid given, was given for the said Mary C. Felton, in affirmance of the judgment of the said justice against the said William W. Teall; whereas, by the law of the land, the said judgment ought to have been given for the said William W. Teall against the said Mary C. Felton, and in disaffirmance of the judgment of the said justice; and the said William W. Teall prays that the judgment aforesaid, for the error aforesaid, and other causes in the record and proceedings aforesaid, may be reversed, annulled, and altogether held for nothing, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

STEPHEN D. DILLAYE,
Att'y and of counsel for plt'ff in error.

2606.

And hereupon, afterwards, to wit, on the 16th day of September, 1847, the said Mary C. Felton, by her next friend, Charles T. Hicks, defendant in error, by Gardner and Burdick, her attorneys, freely comes here into court and says, that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid; and she prays that the said supreme court, before the aforesaid justices thereof now here, may proceed to examine as well the record and proceedings aforesaid, as the matters aforesaid above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affimed, &c.

GARDNER & BURDICK,
Att'ys for def't in error.

And hereupon the process thereof is continued between the parties aforesaid, of the plea aforesaid, in this same court, before the justices thereof, until the first Monday of May, of the term of May, at the court house, in the city of Oswego, in the county of Oswego, and the same day is given to the parties aforesaid, at the same place; at which last mentioned day, before the justices of the supreme court of the people of the State of New York, at the place last aforesaid, come the parties aforesaid by their attorneys aforesaid; whereupon, as well the record and proceedings aforesaid, and the judgment given in form aforesaid, as the matters aforesaid by the said William W. Teall above for error assigned, being seen, and by the said supreme court, before the aforesaid justices thereof now here fully understood, and mature deliberation thereupon had, it appears to the said court before the aforesaid justices thereof now here, that there is no error either in the record and proceedings aforesaid, or in giving judgment aforesaid.

Judgment signed this 5th day of June, 1848.

V. W. SMITH, *Clerk.*

$60 55.

Therefore it is considered that the judgment aforesaid, in form aforesaid given, be in all things affirmed, and stand in full force and effect, the several matters above for errors assigned in anywise notwithstanding; and it is further considered, that the said Mary C. Felton, by her next friend, Charles T. Hicks, do recover against the said William W. Teall, as well her damages and costs aforesaid as also thirty-seven dollars and sixty cents, adjudged to her by the said supreme court of the people of the State of New York, before the aforesaid justices thereof now here, according to the form of the statute in such case made and provided, for her damages, costs, and charges, which she hath sustained and expended by reason of the delay of execution of the judgment aforesaid, on pretence of the prosecution of the said writ of error; which said damages, costs, and charges, in the whole amount to sixty dollars and fifty-five cents; and that the said Mary C. Felton, by her next friend, Charles T. Hicks, have execution thereof, &c.

(Examined, filed June 5, 1848, 8 p. m.)

All which is respectfully returned.

[L. S.] Witness Daniel Pratt, presiding justice of the fifth judicial circuit of the State of New York, and the seal of the county of Onondaga, the 11th day of July, 1848.

V. W. SMITH,
Cl'k of Onon. co. and ex officio cl'k of the supreme court.

In the court of appeals.

William W. Teall
ads.
Mary C. Felton, by her next friend, Chas. T. Hicks.

Afterwards, that is to say, on the 16th day of July, in the year of our Lord one thousand eight hundred and forty-eight, before the judges of the court of appeals, comes the said William W. Teall, by Sedgwick and Dillaye, his attorneys, and says, that in the record and proceedings aforesaid, and in giving and affirming the judgment aforesaid, there is manifest error, in that the judgment affirmed by the said justice of the peace, Richard Woolworth, esq., was affirmed in the court of common pleas, in and for the county of Onondaga, before the judges thereof; whereas, by the law of the land, the said judgment ought to have been reversed; and also there is error in this, that the judgment aforesaid of the said court of common pleas, in and for the county of Onondaga, was affirmed in the supreme court of the State of New York by the justices thereof; whereas, by the law of the land, the said judgment ought to have been reversed; therefore in that there is manifest error, and the said William W. Teall prays that the judgment of the said justice of the peace, and the judgment of the said court of common pleas, and the affirmance thereof aforesaid for the errors aforesaid, and for other errors in the said record and proceedings being, may be reversed and altogether holden for nought, and that the said William W. Teall may be restored to all things he hath lost by the said judgment, and the said affirmance thereof.

SEDGWICK & DILLAYE,
Defendant's attorneys.

In the court of appeals.

Mary C. Felton, by her next friend
Charles T. Hicks, defendant in error,
vs.
William W. Teall, plaintiff in error.

And hereupon afterwards, to wit, on the 24th day of July, in the year of our Lord one thousand eight hundred and forty-eight, the said Mary C. Felton, by her next friend, Charles T. Hicks, by Gardner & Burdick, her attorneys, freely comes into court, and says that there is no error, either in the record and proceedings aforesaid, or in giving and affirming the judgment aforesaid, and prays that the said court of appeals, before the aforesaid judges thereof now here, may proceed to examine as well the record and proceedings aforesaid, as the matter aforesaid above assigned for error, and that the judgment aforesaid, in form aforesaid given, may be in all things affirmed.

GARDNER & BURDICK,
Att'ys for defendants in error.

STATE OF NEW YORK, *ss:*

Pleas in the court of appeals held at the Capitol, in the city of Albany, on the twenty-ninth day of December, in the year of our Lord one thousand eight hundred and forty-eight, before the judges of said court.

(Witness) FREEBORN G. JEWETT, esq.,
Chief judge.

CHARLES S. BENTON,
Clerk.

WILLIAM W. TEAL, plaintiff in error,
vs.
MARY C. FELTON, by her next friend, &c., defendant in error.

Be it remembered, that on the eighteenth day of July, in the year of our Lord one thousand eight hundred and forty-eight, the transcript of the record and process between the parties aforesaid of the plea aforesaid mentioned, with all things touching the same, on pretext of a certain writ of error prosecuted in the premises therein mentioned, by the said plaintiff in error, was transmitted from the supreme court of judicature of this State before the court of appeals. And the aforesaid plaintiff in error, appearing by Sedgwick & Dillaye, and S. D. Dillaye, his counsel in the same court of appeal, on the same day and in the year last aforesaid, did assign certain matters for errors in the said record and process aforesaid, for reversing and annulling, in the judgment aforesaid of the said supreme court.

And the said defendant in error likewise appears by Gardner & Burdick, and B. Davis Noxon, her counsel in the said court of appeals, and pleaded that there was no error, either in the record and proceedings or in giving and affirming the judgments aforesaid. And afterwards, to wit, on the 29th day of December, 1848, aforesaid, as well the record and proceedings aforesaid, and the judgment aforesaid given in form aforesaid, as also the matters by the said William W. Teall for error assigned, being by the said court of appeals diligently examined and fully understood, it seemeth to the same court that there was no error, either in the record and proceedings aforesaid or in giving the judgment aforesaid.

Therefore it is considered by the said court of appeals that the judgment aforesaid be and the same is in all things affirmed with costs, and stand in its full force, strength, and effect, the matters aforesaid above for error assigned and alleged in any wise notwithstanding; and it is further considered by the same court that the said Mary C. Felton, by her next friend, Charles T. Hicks, recover against the said William W. Teall seventy-five dollars and sixty-four cents, by the same court here adjudged to the said Mary C. Felton by her next friend, Charles T. Hicks, &c., at her request, according to the form of the statute in such case made and provided, for her damages, costs, and charges which she hath sustained and expended on occasion of the delay of execution of the judgment aforesaid, on pretence of prosecuting the said writ of error; which said damages, costs, and charges, in the whole, amount to one hundred and thirty-six dollars and nineteen cents, and that the said Mary C. Felton, by her next friend, Charles T. Hicks, have execution thereof, &c.

And hereupon, as well the record aforesaid as the proceedings of the court of appeals aforesaid, before them had in the premises, and by the said court of appeals remitted into the supreme court of the State of New York before the justices thereof, according to the form of the statute in such case made and provided, and now remain in the said supreme court before the justices thereof, &c.

Judgment signed this 17th day of Feb'y, 1849.

V. W. SMITH, *Cl'k.*

(Filed Feb'y 17, 1849, 3½ p. m, examined.)

All which is respectfully returned.

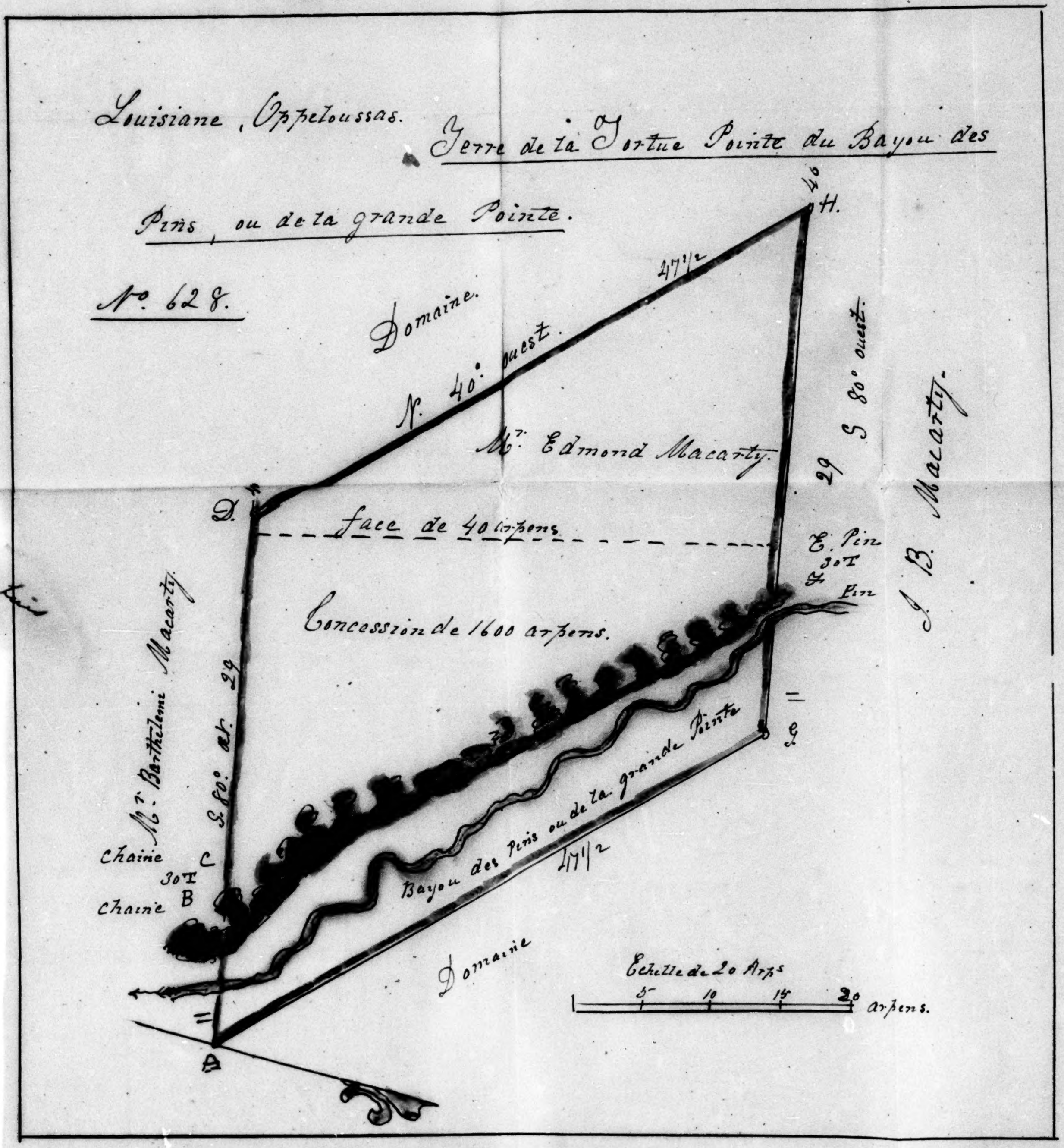
Witness the hon. Daniel Pratt, one of the justices of the [SEAL.] supreme court of the State of New York, and the seal of the county of Onondaga, this 10th day of December, 1849.

VIVUS W. SMITH, *Clerk of the county of Onondaga, and ex officio clerk of the supreme court of the State of New York.*

In Evidence.

See Abstract folio 16 of this Transcript

Doc: 5. Survey in favor of Edmond Macarty, & Procès verbal.

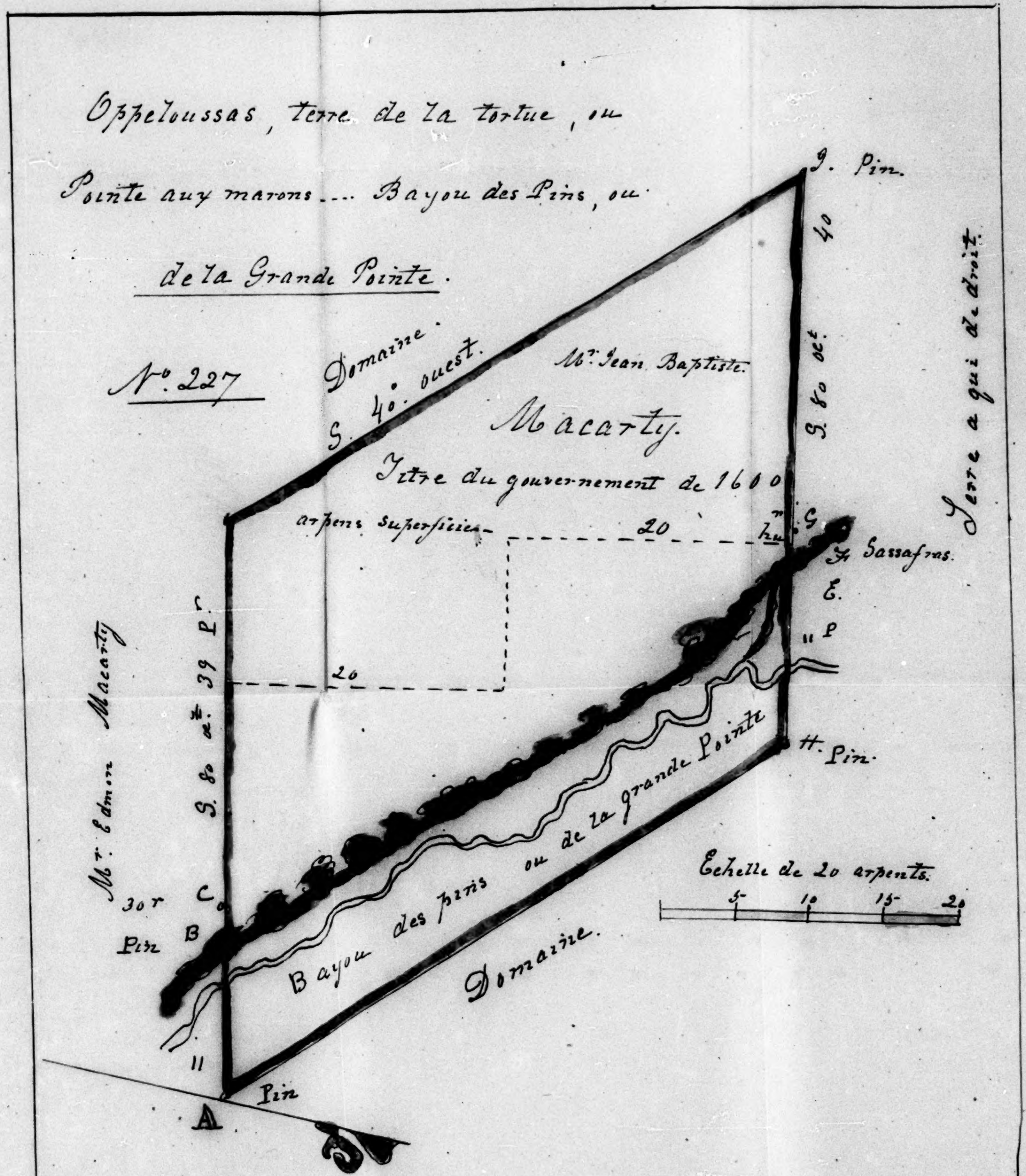


Moi soussigné, a la réquisition (over)

In Evidence.

See Abstract, folio 16 of this Transcript.

Doc: 2. Survey in favor of J. B. Macarty & procès-verbal.



Oppeloussas, terre de la tortue, ou
Pointe aux marons.... Bayou des Pins, ou
de la Grande Pointe.

No. 227

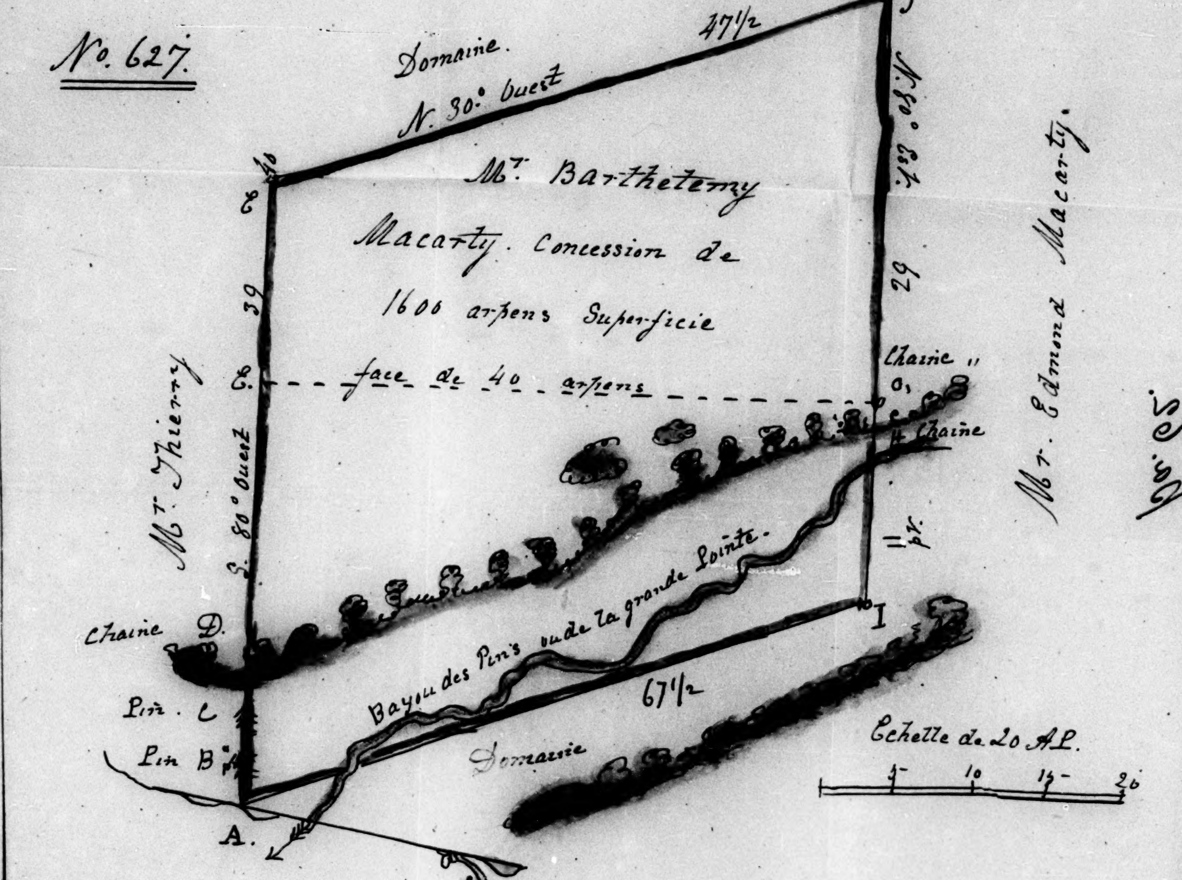
J. V. Cotier, arpenteur juré (over.)

— *In Evidence.* —

— See Abstract, folio 16 of this Transcript. —

— Doc: 8. Survey in favor of Barthelemy Macarty, & procès verbal —

Louisiane, Oppeloussas. Terre de la Tortue, ou Pointe aux marons, Bayou des Pins, ou de la grande Pointe.

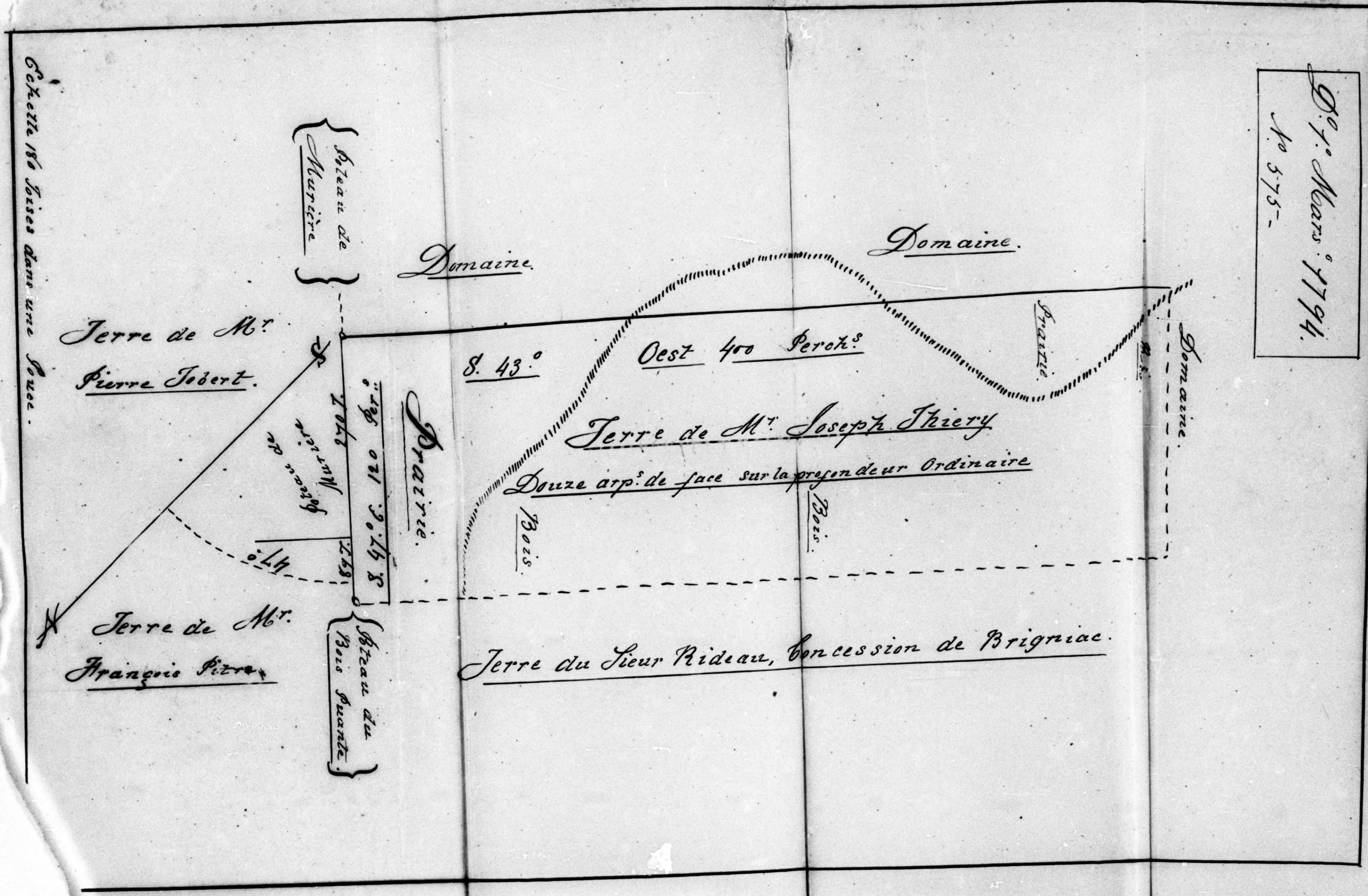


Doc. 8.

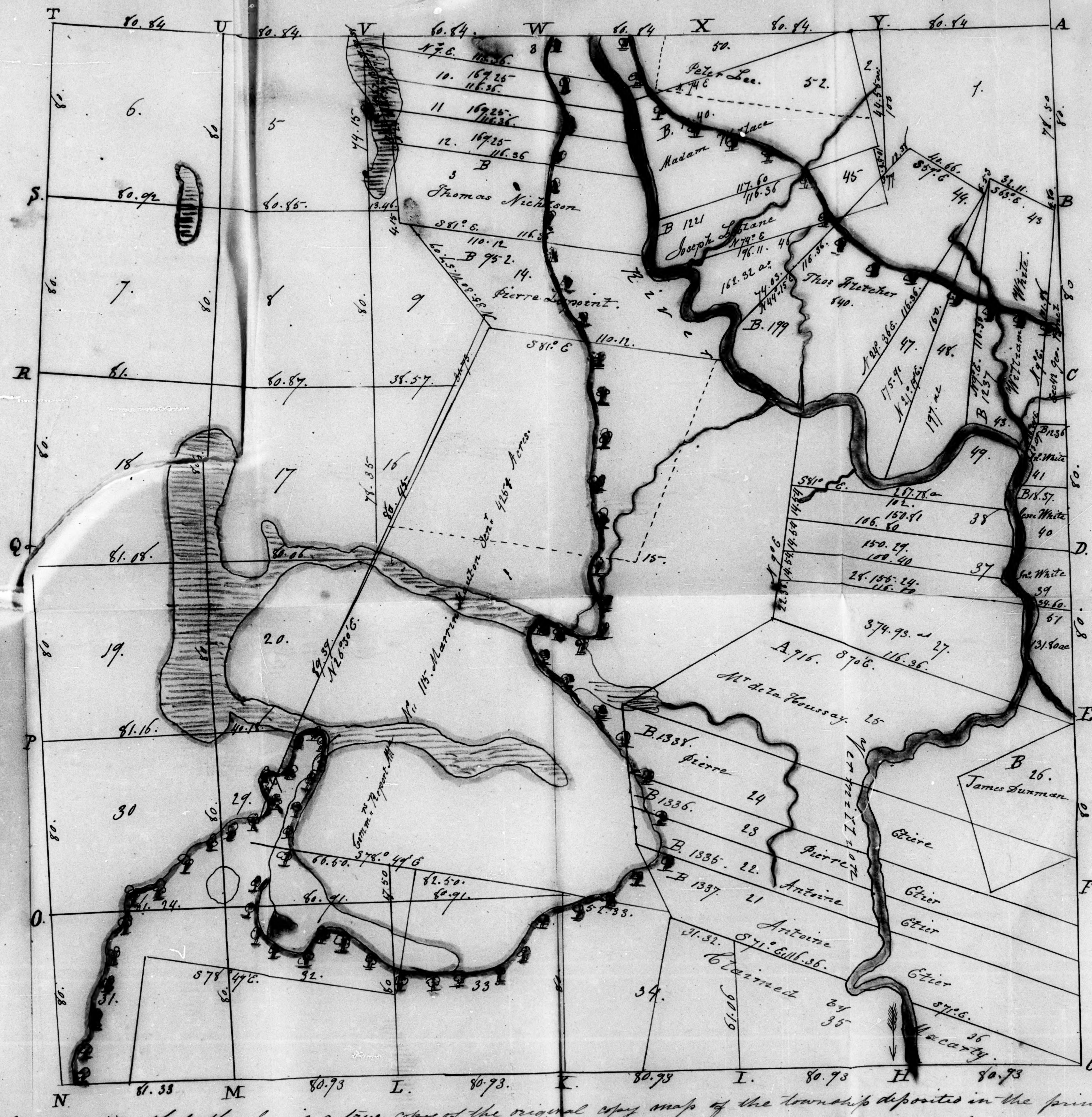
[Moi soussigné, a la réquisition (over

In Evidence. See Abstract, folio 164 this Transcript.

Doc: 70. Survey in favor of Joseph Thiery and procès Verbal (certified copy of)


D° 1° Mars 1794.
N° 575.
Domaine
Domaine
Domaine
Poteau de Murière
Terre de Mr. Pierre Jobert.
Terre de Mr. François Pitre.
Échelle 180 Toises dans une Pouce.
S. 47° E. 120 per.
Poteau de Murière
47°
Prairie.
Prairie
S. 43° Oest 400 Perchs.
Terre de Mr. Joseph Thiery
Douze arps. de face sur la profondeur Ordinaire
Bois
Bois
Poteau du Bois Puante.
Terre du Sieur Rideau, Concession de Brigniac.

Township No. 13 South, in Range No. 3 East; Southwestern Land District State of Louisiana.

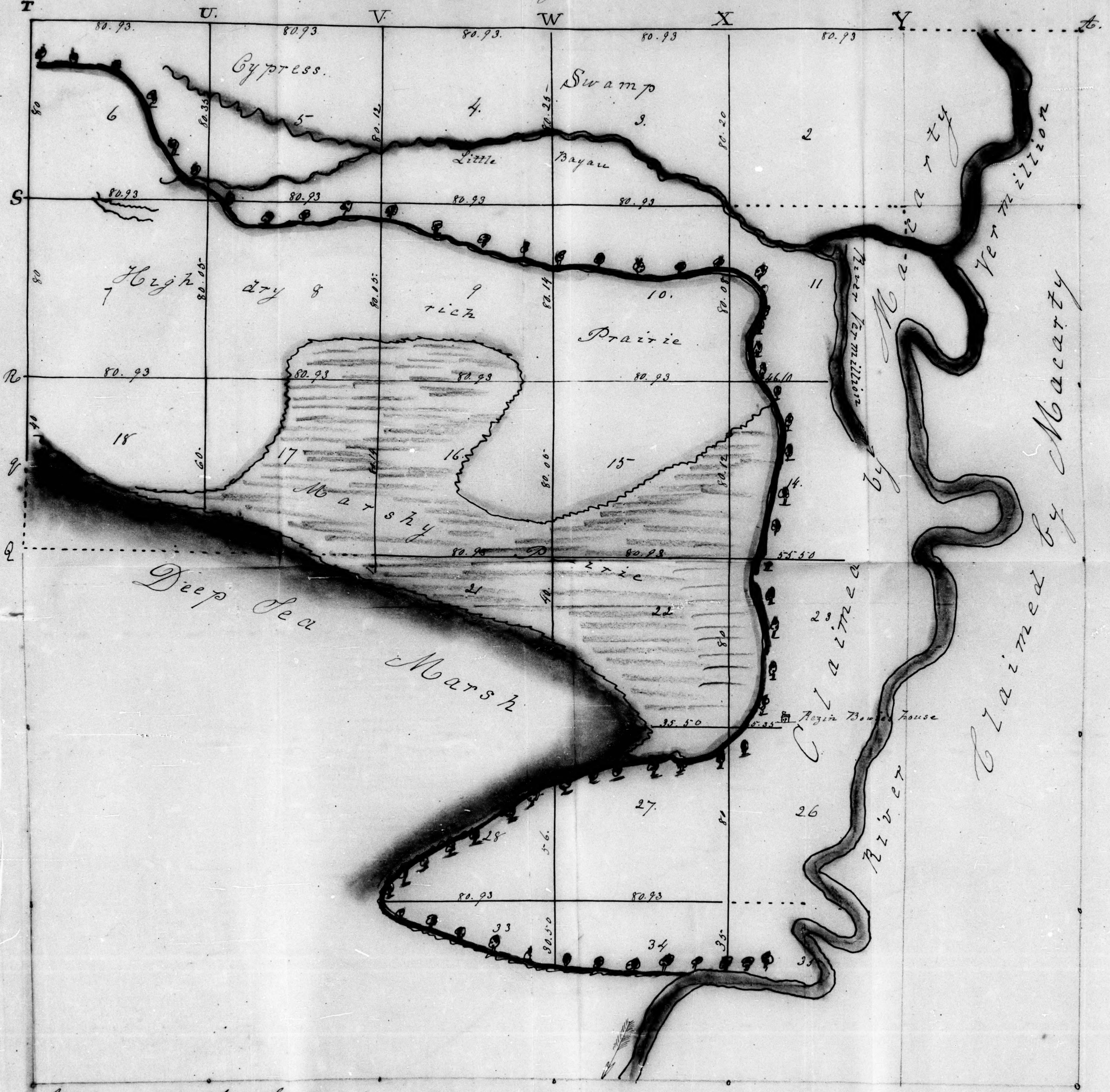


I hereby certify that the above is a true copy of the original copy map of the township deposited in the principal Deputy Surveyor's office at Opelousas as approved by Gideon Fitz Esq. principal Surveyor at the time of the return of said Map. Opelousas Sept. 5th 1831.

John Dinsmore Senr.

Principal Deputy of the S.W. Land District Louisiana untill the Act of Congress of 1831. abolishing said office, and legal keeper of the plans & documents of his former office — — —

Township No. 14. South, in Range No. 3 East. (Fractional) Southwestern Land District, State of Louisiana.



I hereby certify that the above is a true map of said Township, laid down from the Field-notes preserved by the principal deputy-Surveyor at Opelousas in his office, and approved by Gedion Fitz Esq. principal deputy Surveyor at the date of the return of said Field-Notes, Opelousas Sept 5th 1831

John Dinsmore Senr.

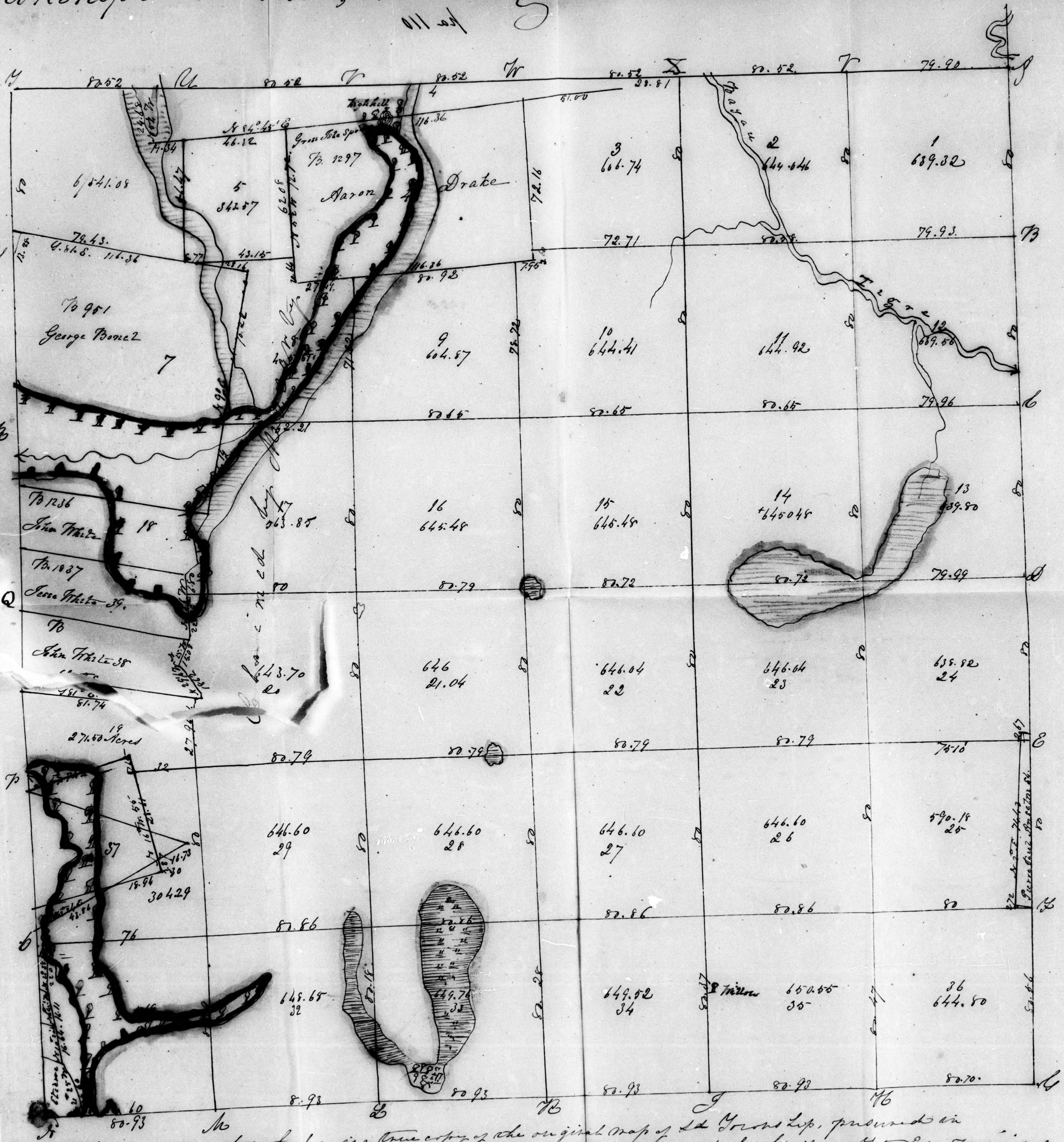
Principal Deputy Surveyor of the S. W. District Louisiana until the Act of Congress of 1831 abolishing said office, and legal keeper of the plans & documents of his former office

Township No 13 South, in Range No 4 East Southwestern Land District, State of Louisiana

fo 110

No 211 U. States vs Brearty's heirs

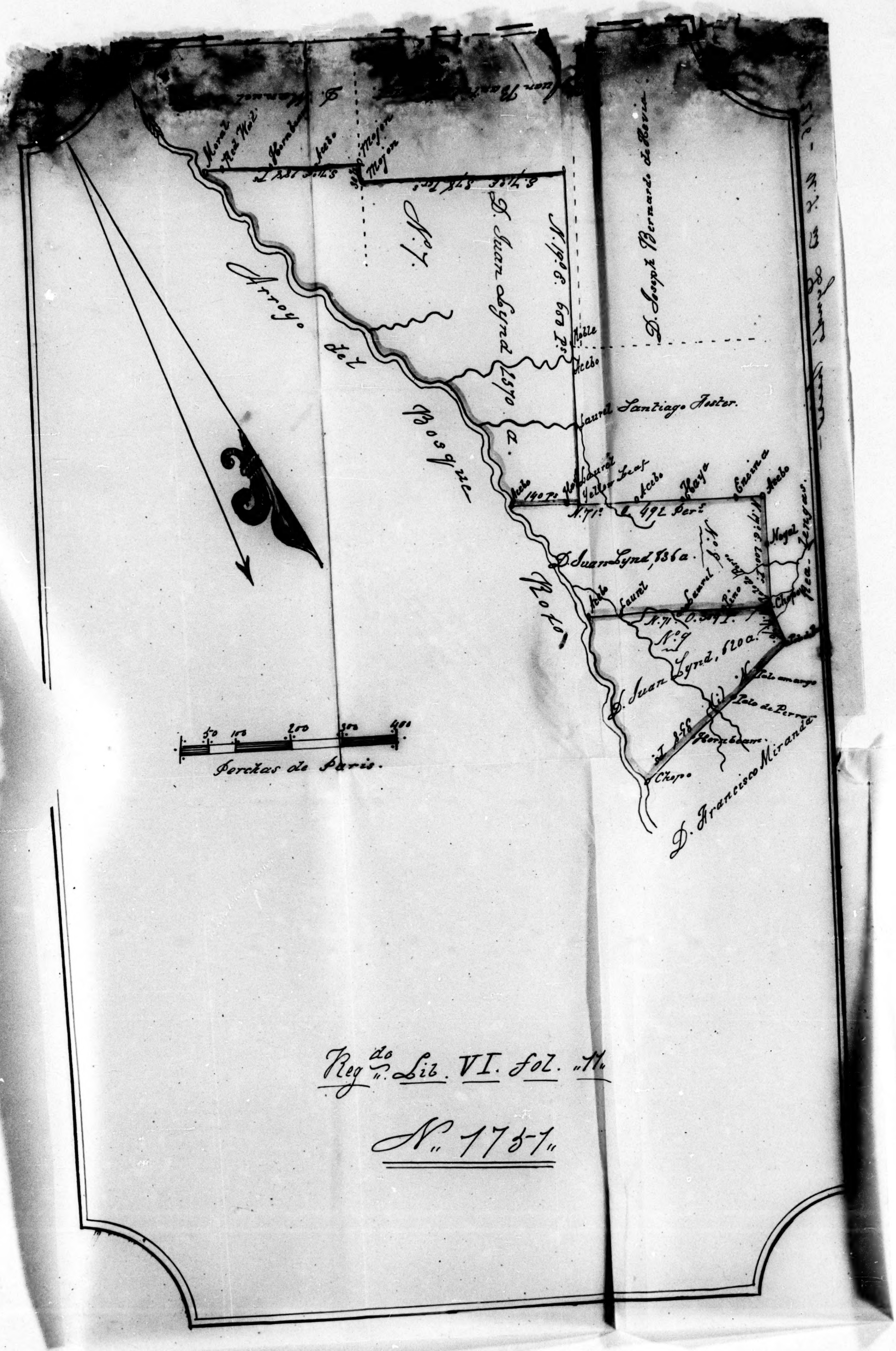
fo 207



I hereby certify that the above is a true copy of the original map of sd Towns'p, preserved in the office of the principal Deputy Surveyor at Opelousas & approved by Gideon Fitz Esq principal Deputy Surveyor at the return of said map. Opelousas Sept 3rd 1831.

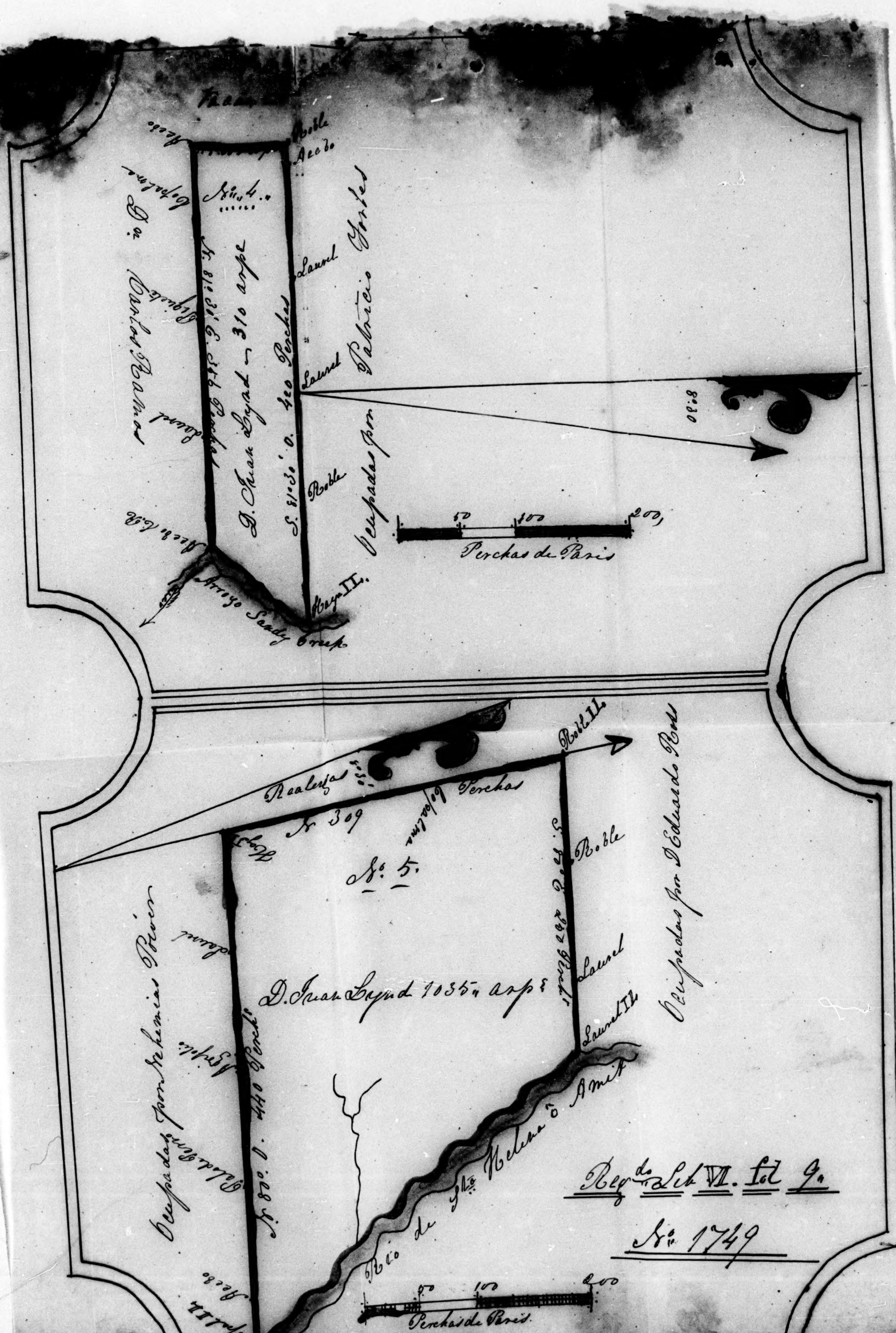
John Dinsmore Late

Principal Deputy Surveyor of the S. W. Land District. Louisiana, until the act of Congress abolishing said office in 1831. and legal keeper of the Plans & Documents of his former office



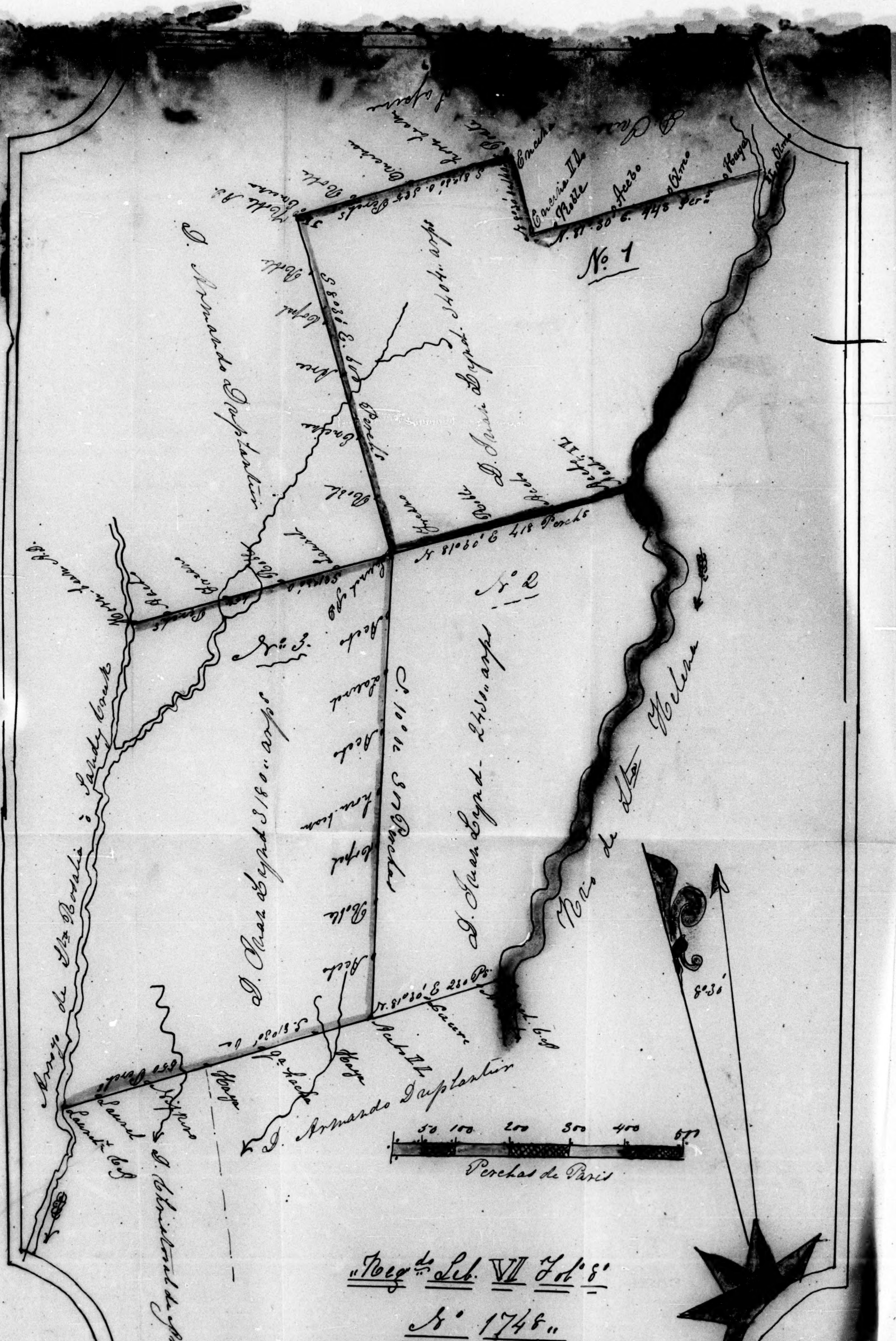
Reg.^{do} Lib. VI. fol. 11.

N. 1751.



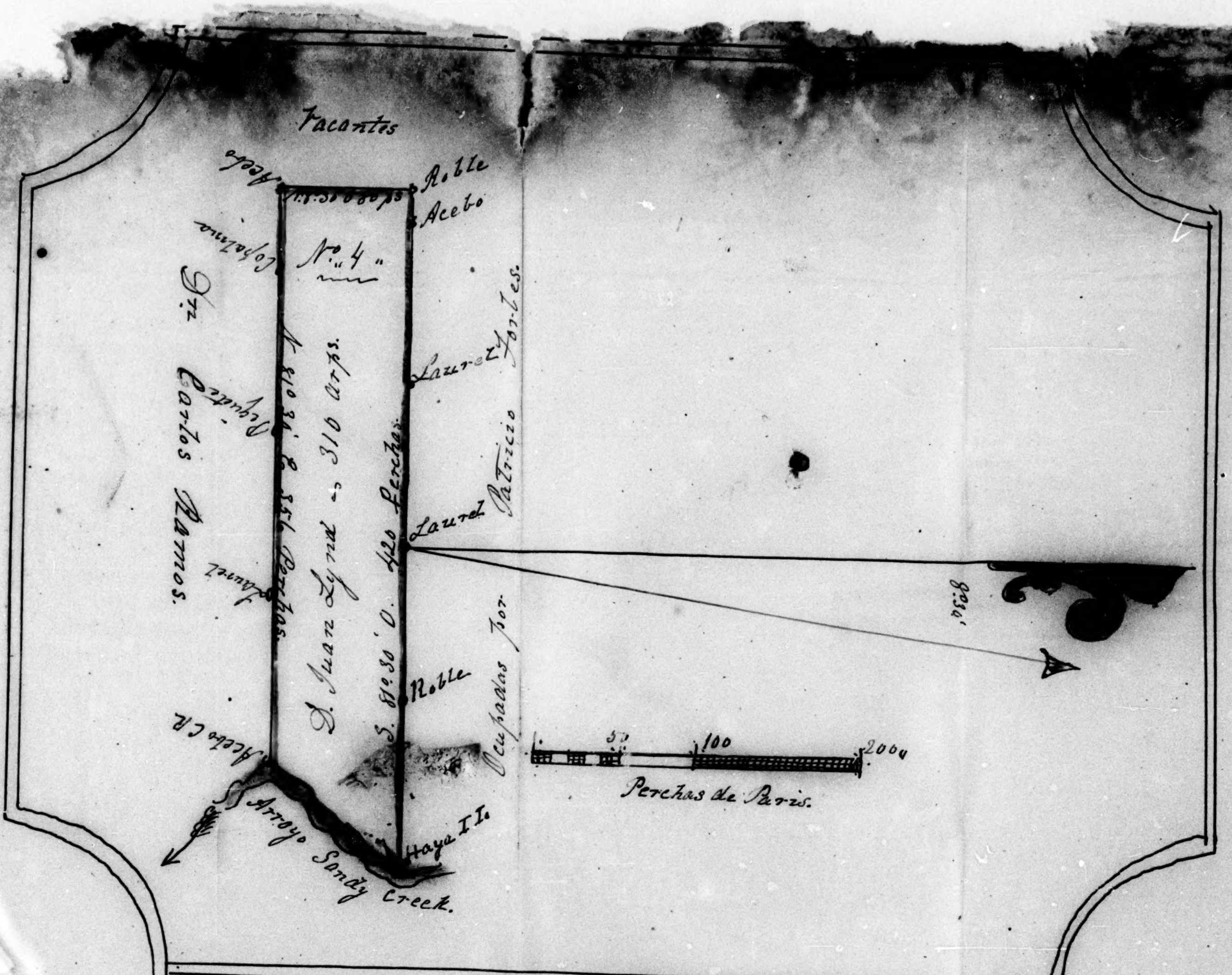
Reg.do Lib. VI. fol. 9.

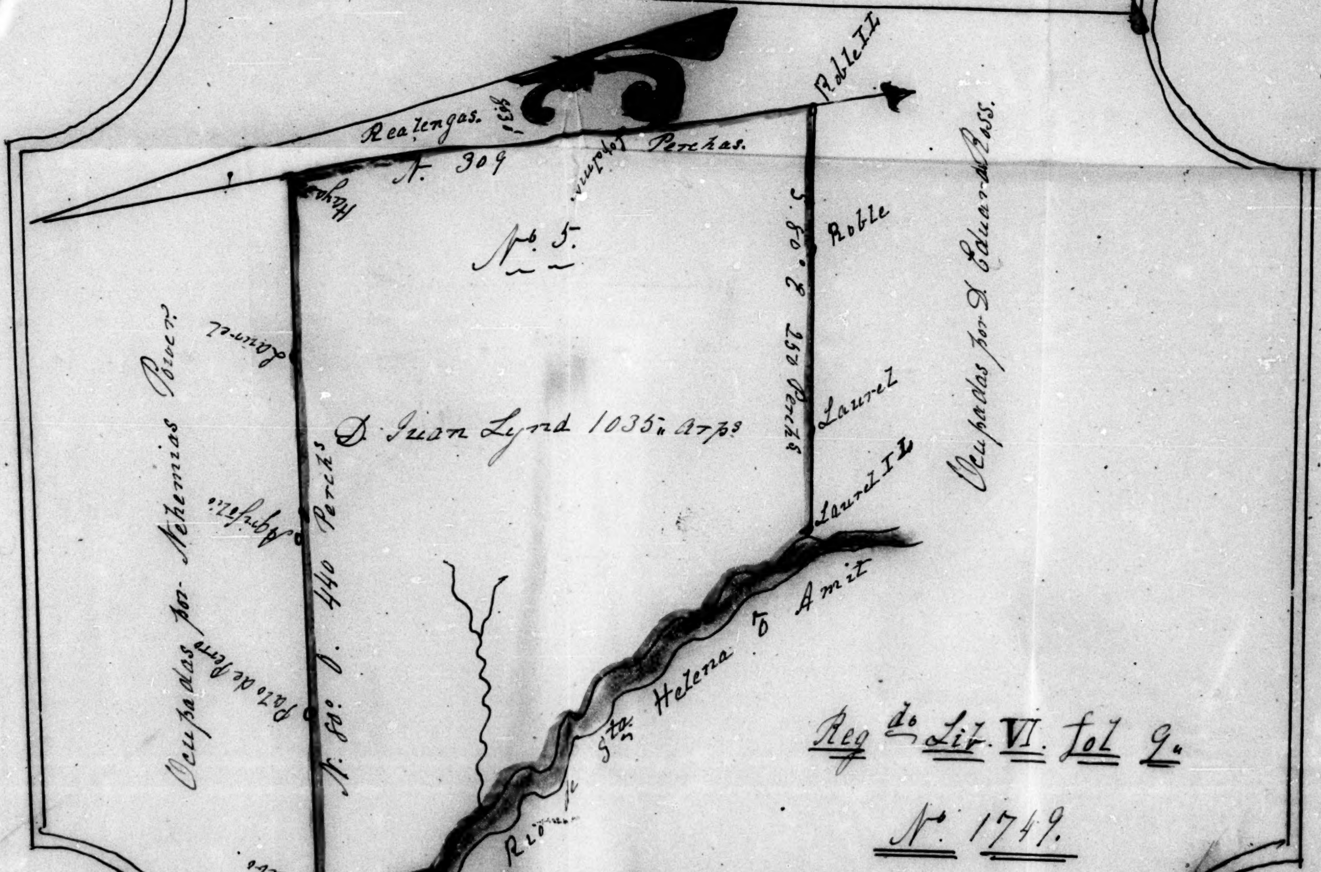
No. 1749



"Reg. Lib. VI Fol. 8

No. 1748"





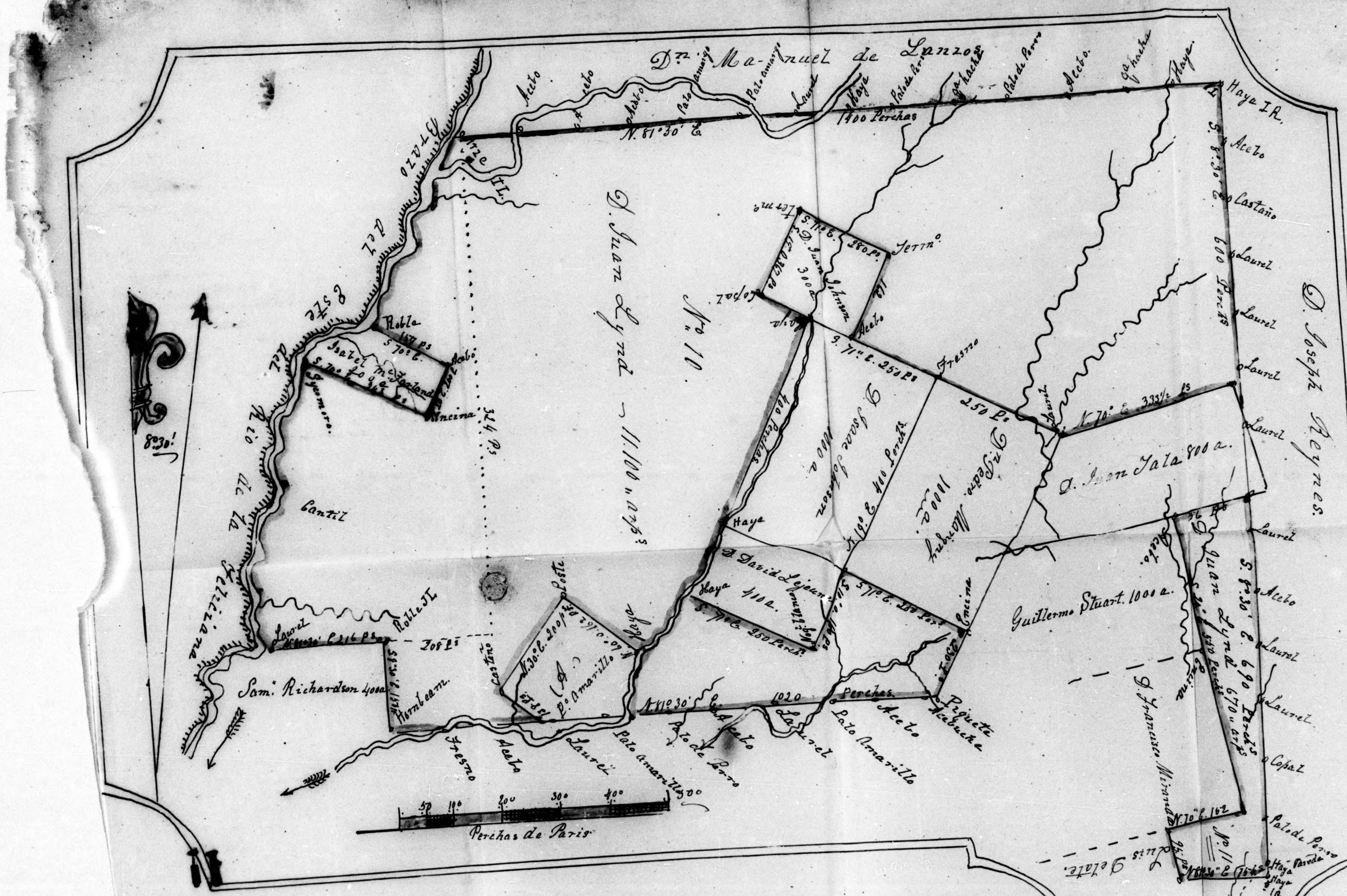
Reg^do Lib. VI. Fol 9.

No 1749.

14

pa. 11

No 216 - pa. 17. W. S. [illegible]



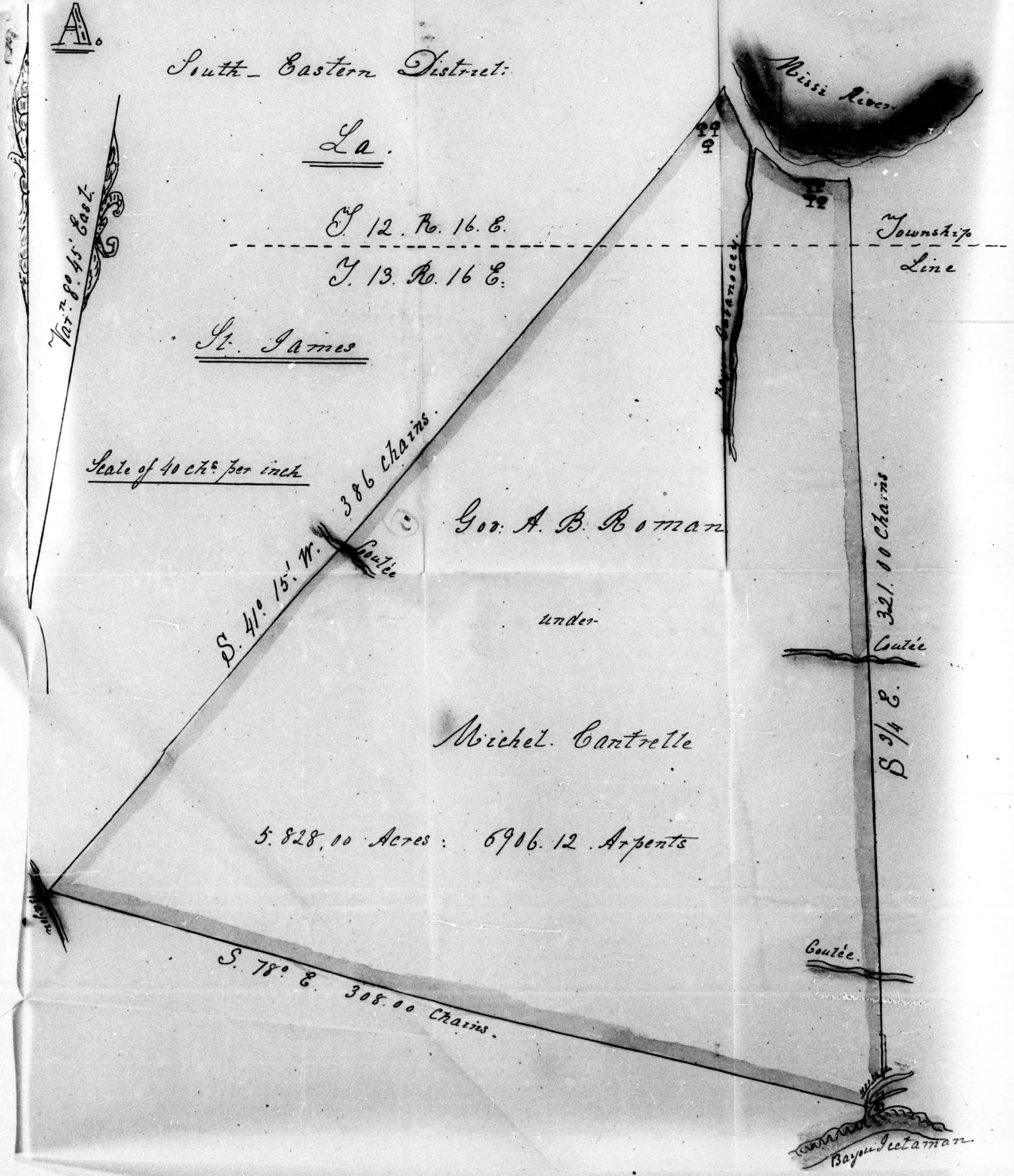
Dn. Manuel de Lanzos
N. 81° 30' E.
1400 Perchas
Acebo
Palo amarillo
Laurel
Haya
Palo de Perro
Haya I.R.
S. 8° 30' E.
Castaño
600 Perchas
D. Joseph Reynes.
D. Juan Lynd
No. 10
11,100 ar.
Brazo del Este del Rio de la Feliciana
Roble
Isabel McFarland
S. 70° E.
Encina
324 Ps.
Lantil
D. Juan Johnson 300 a.
Terrn.o
Copal
Fresno
S. 71° E. 250 Ps.
D. Isaac Johnson 1000 a.
D. Pedro Murphy 1000 a.
N. 70° E. 333½ Ps.
D. Juan Tala 800 a.
Haya
D. David Lejeune 410 a.
S. 71° E. 250 Perchas
Guillermo Stuart. 1000 a.
Laurel
Roble IL
208 Ps.
Sam.l Richardson 400 a.
Hornbeam
Castaño
N 30° E. 200
Palo amarillo
N. 11° 30' E.
1020 Perchas
Piquette
Acebo
Fresno
Palo de Perro
D. Francisco Miranda
D. Juan Lynd 670 a.
No. 11
S. 8° 30' E. 690 Perchas
Copal
Laurel
D. Luis Delate
N. 70° E. 162
Haya
Pareda
Haya I.R.
S. 8° 30' O
50 100 200 300 400
Perchas de Paris

Fo. 216. [illegible] 20
[illegible]

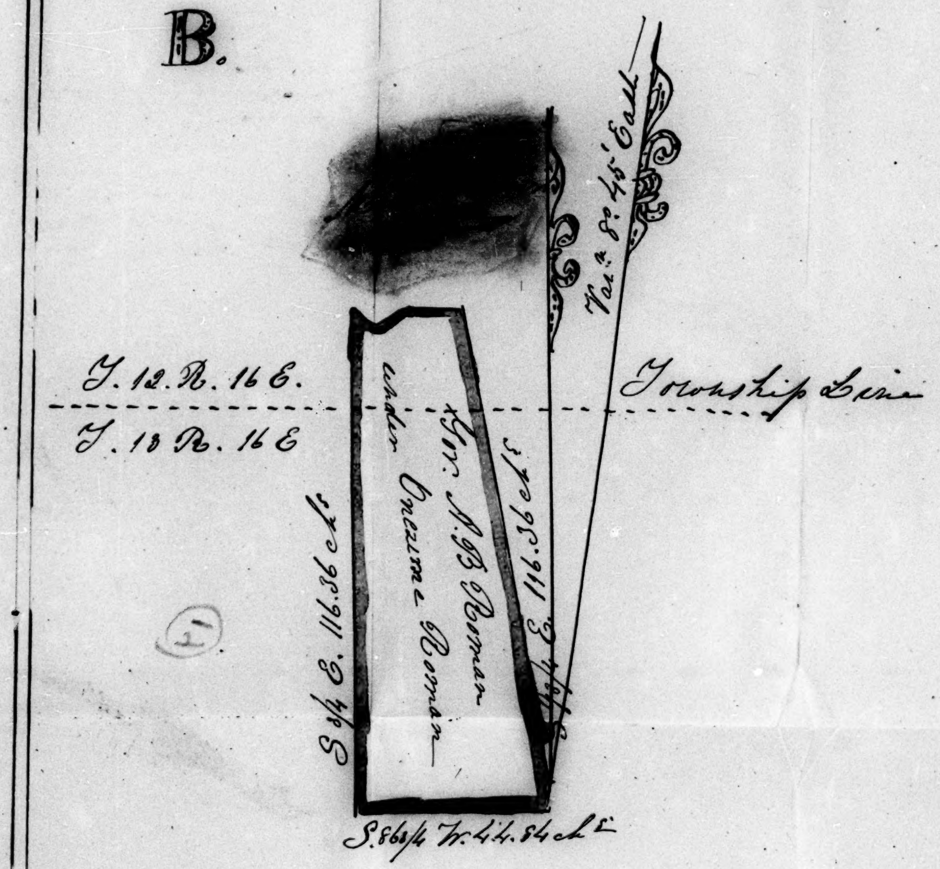
Document A

it referred to on pages of this Transcript, as annexed to, & made part of Pl'ffs Petition

filed June 15. 1846.



Document B
being that referred to on page 5 of this Transcript as annexed to Plffs Petition
filed June 15. 1846.



South Eastern Dist La.

St James

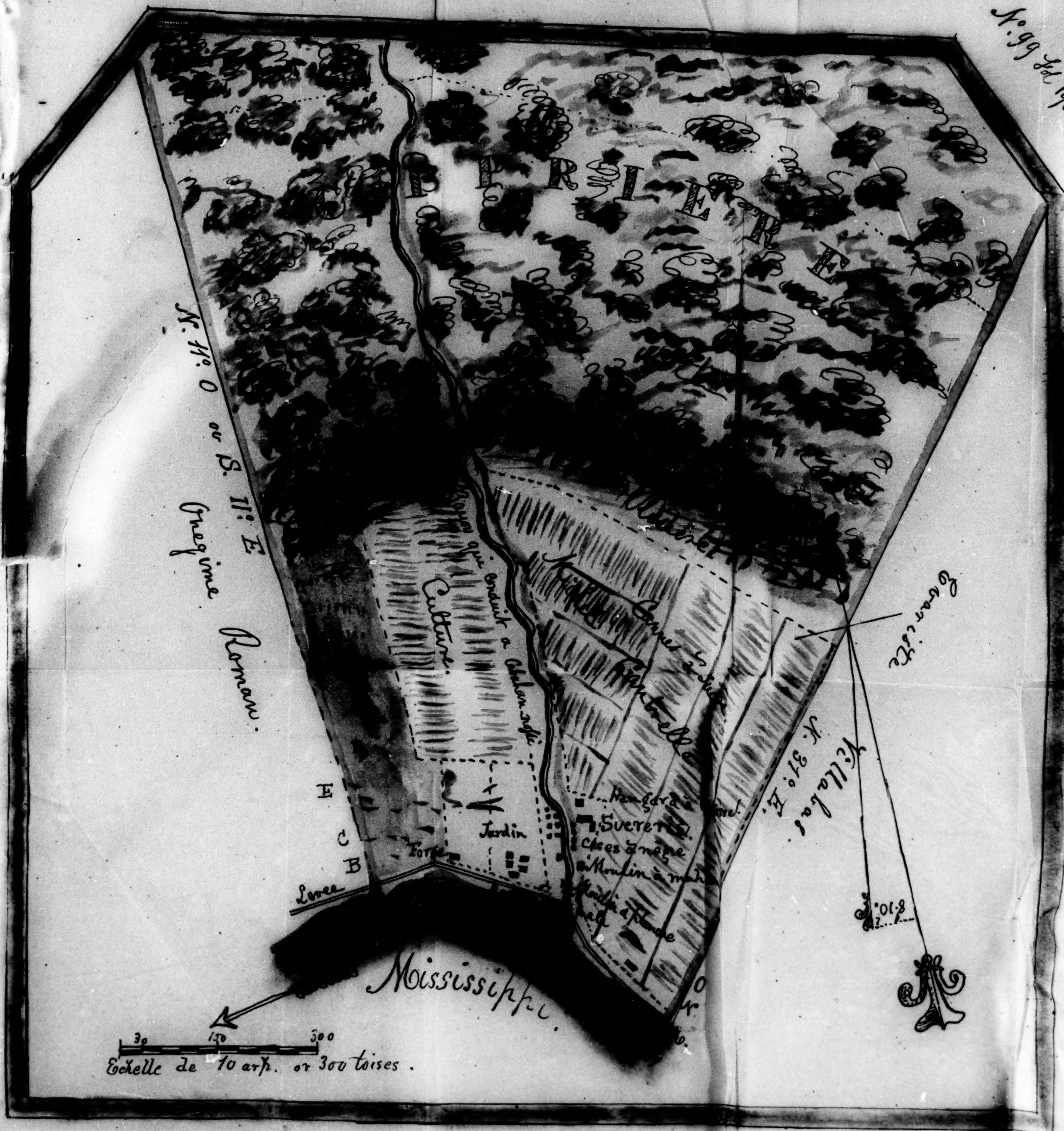
Scale of 40 chs per inch

No 219 U. S. vs Roman

9

9 Pa 69 W.S. [illegible] Kombu

COMTÉ D'ACADIE.

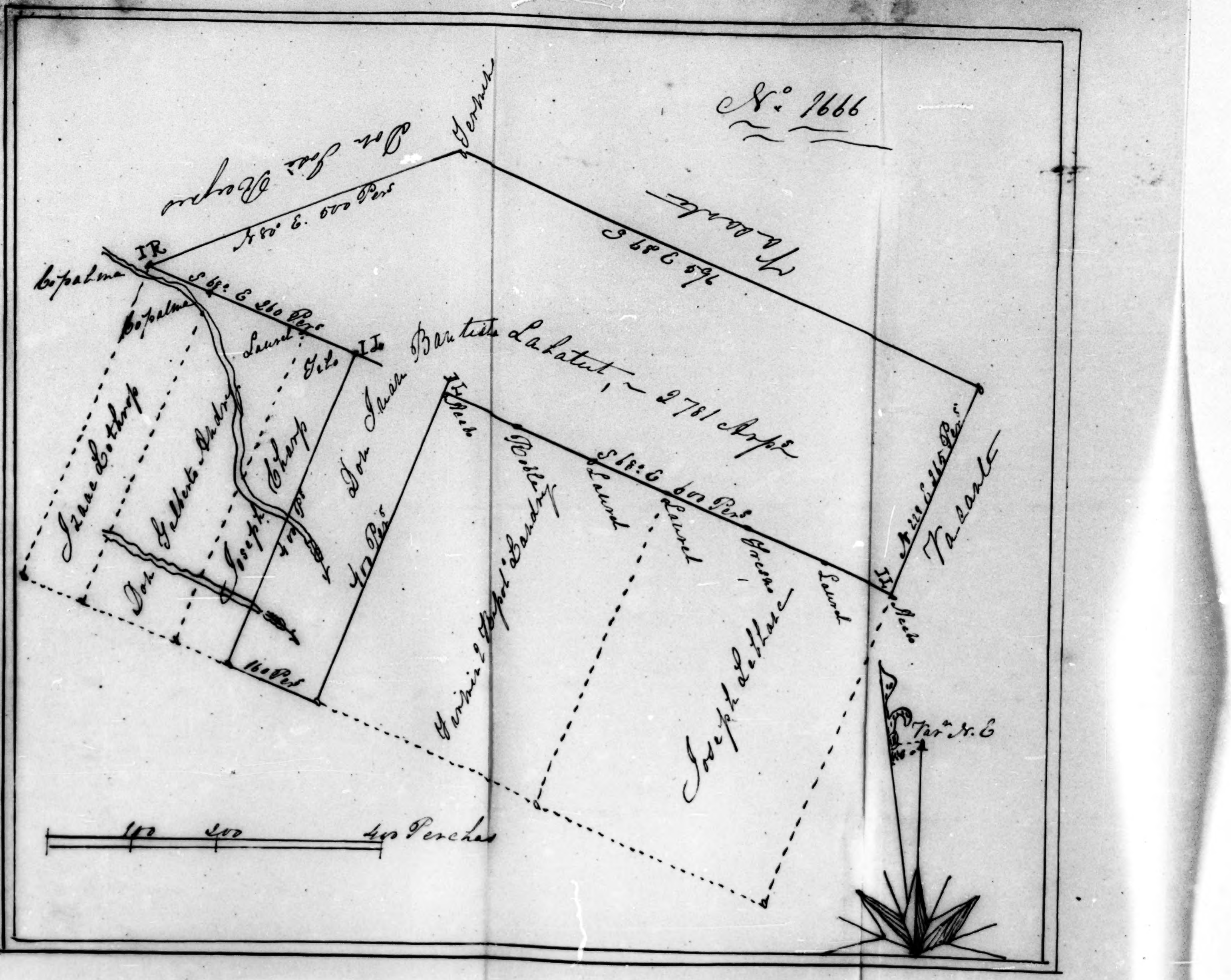


Quartier Cabahanossé, Mississipi, Rive Droite.

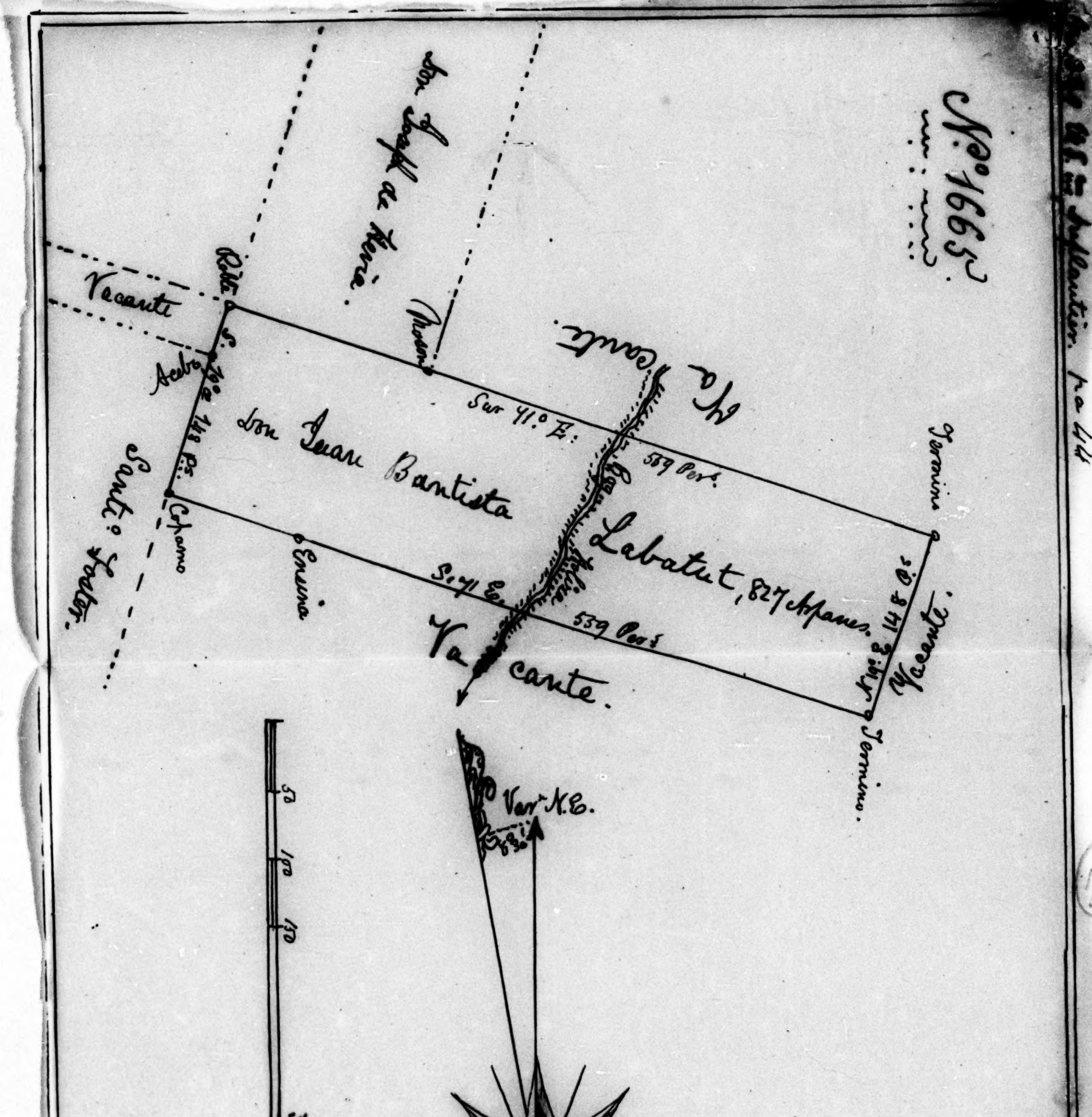
(5)

No 220 Ar, S ão Septentrion

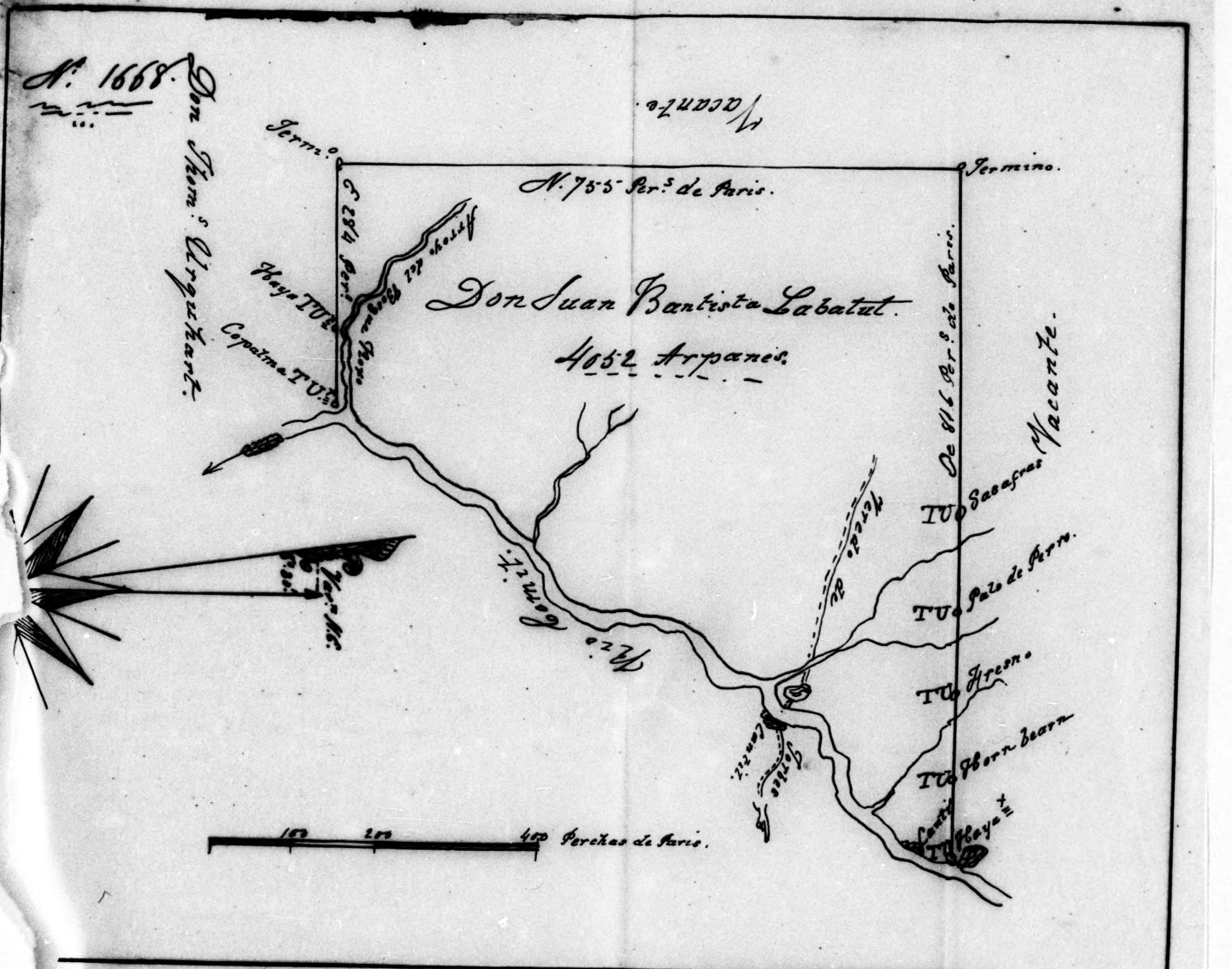
N.º 1666



No. 1665.

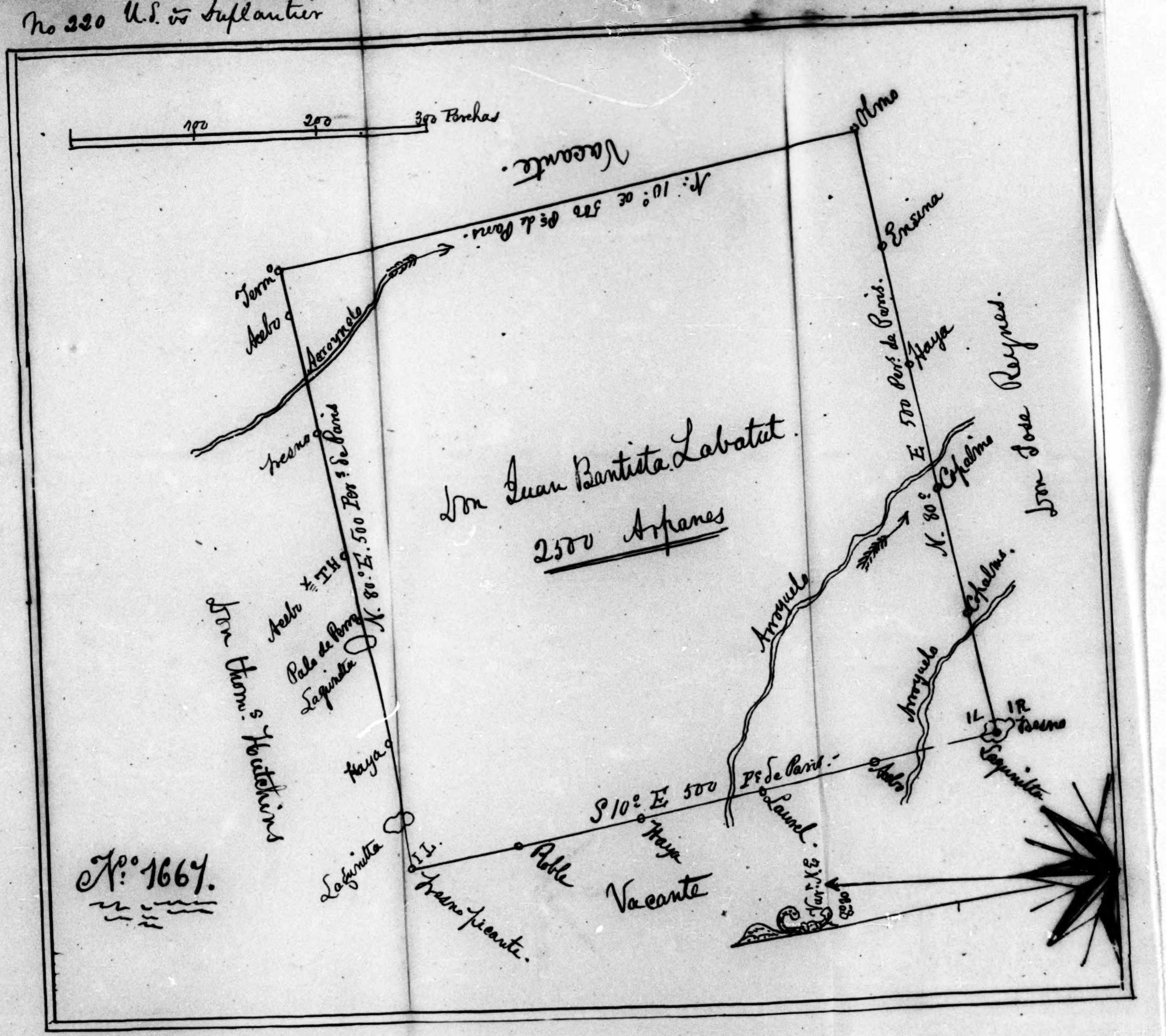

Arpentier. pa 44
Don Joseph de Hevia.
Moran
Roble
Vacante
Acebo
S. 70° E 148 Ps.
Don Juan Bautista Labatut, 827 Arpanes.
Sur 41.° E.
539 Pers.
S. 71 E.
539 Pers.
Copano
Encina
Santº Foster.
Va cante.
Vacante.
Bayu
Termino.
Termino.
N. 19 E. 148 Ps.
Vacante.
Var. N.E.
8°30
50
100
150
300 Ps.

- Gua 63 - U.S. vs Duplantier —



2

No 220 U.S. vs Suflantier



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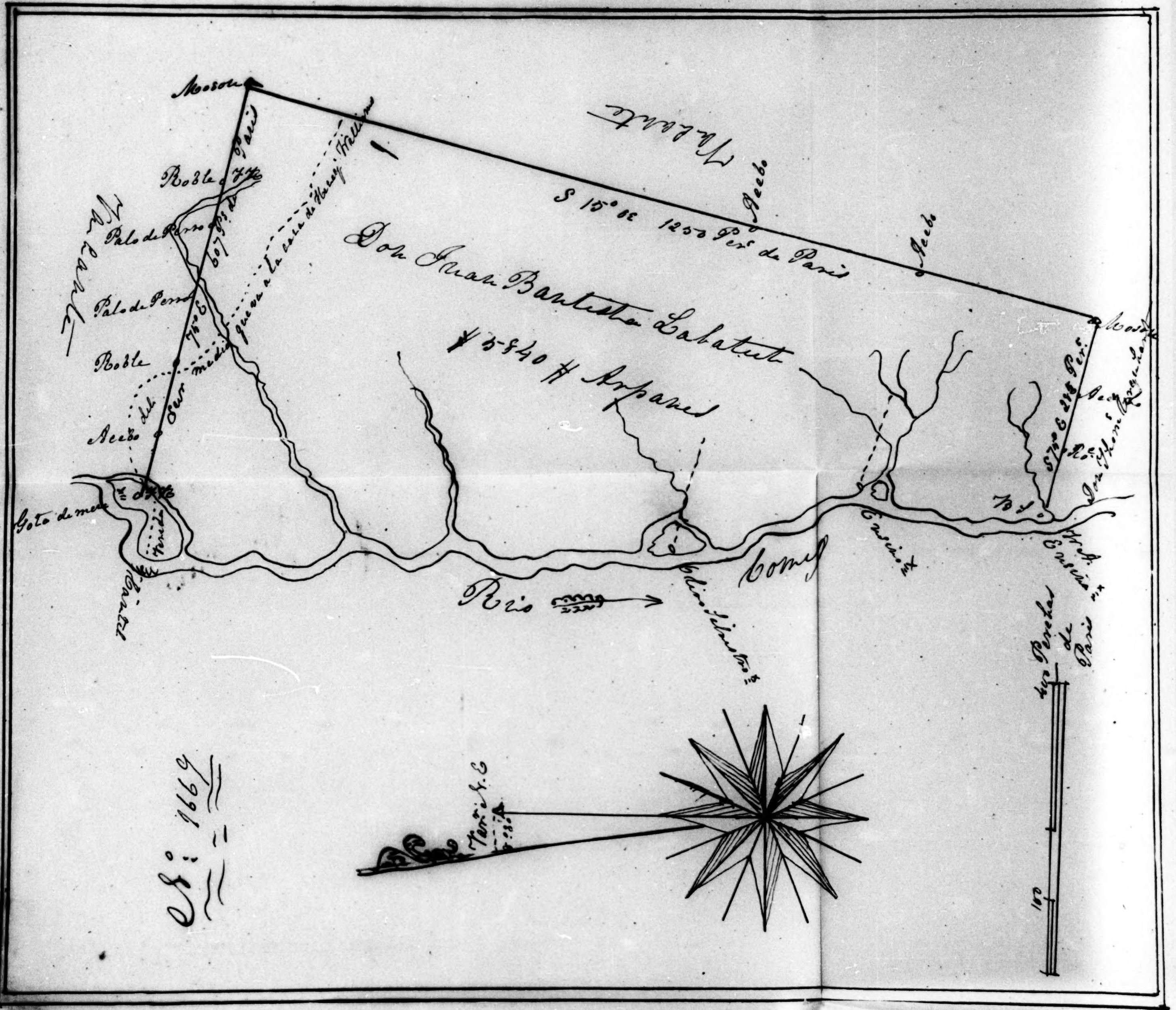
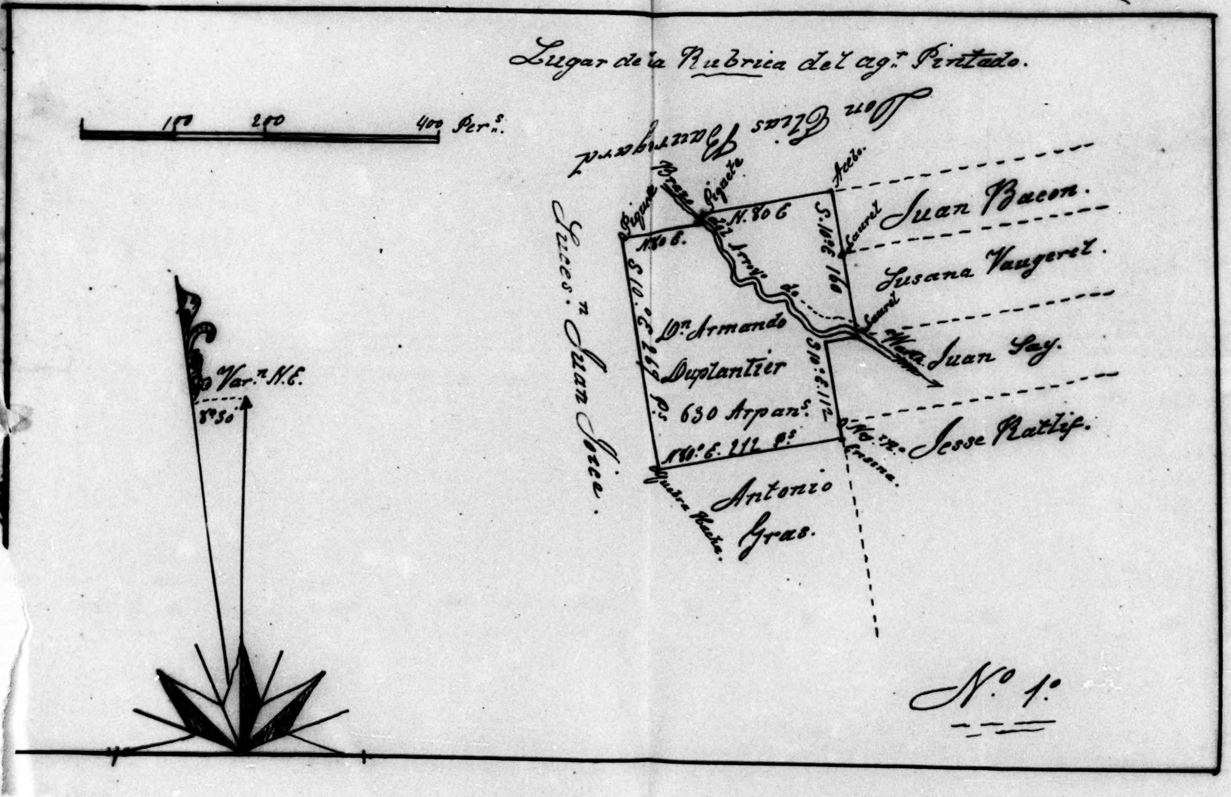
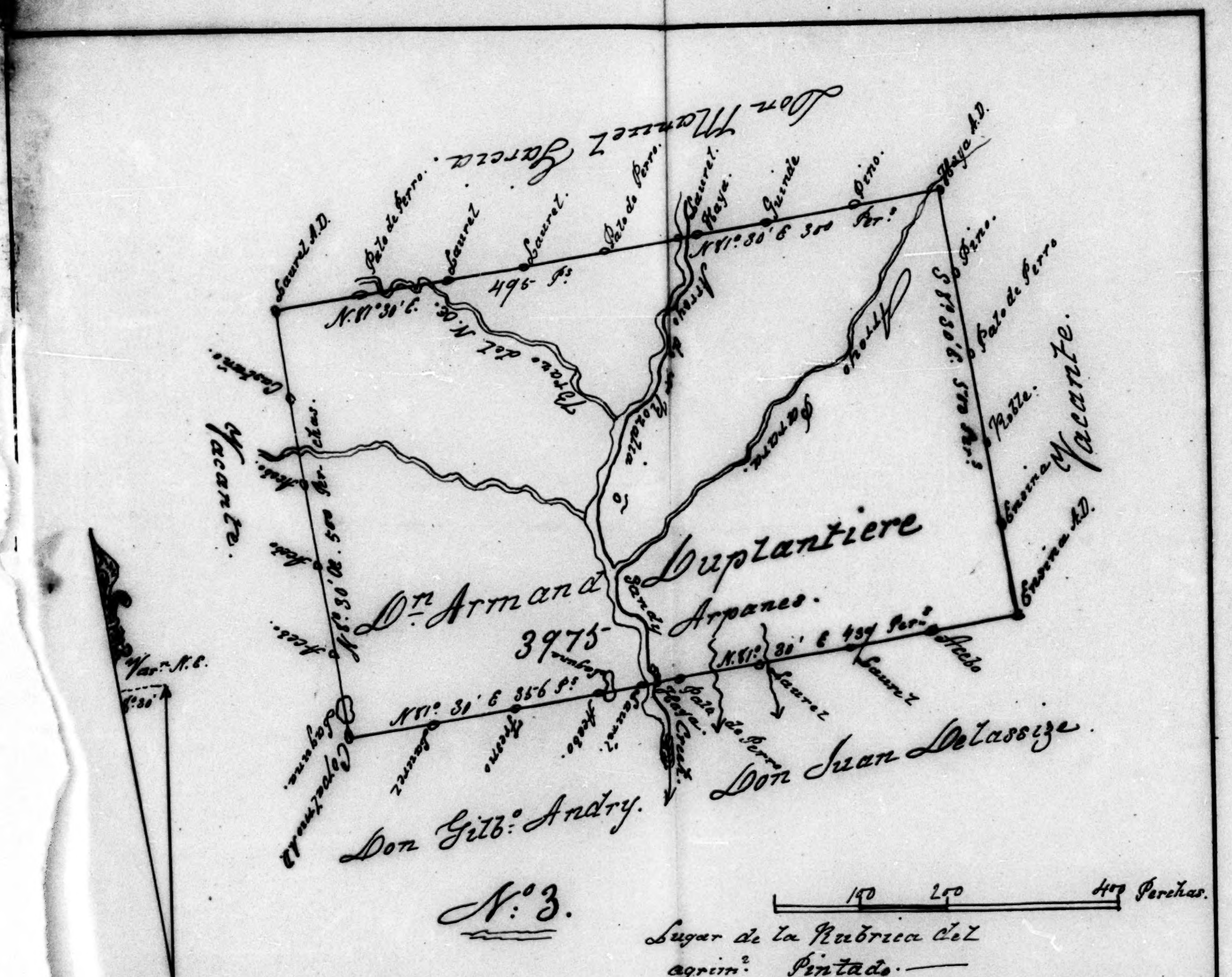


No 220 page 56 U S vs Dauphantin

Nº 220 - Gra: 199 - U. S. vs Duplantier



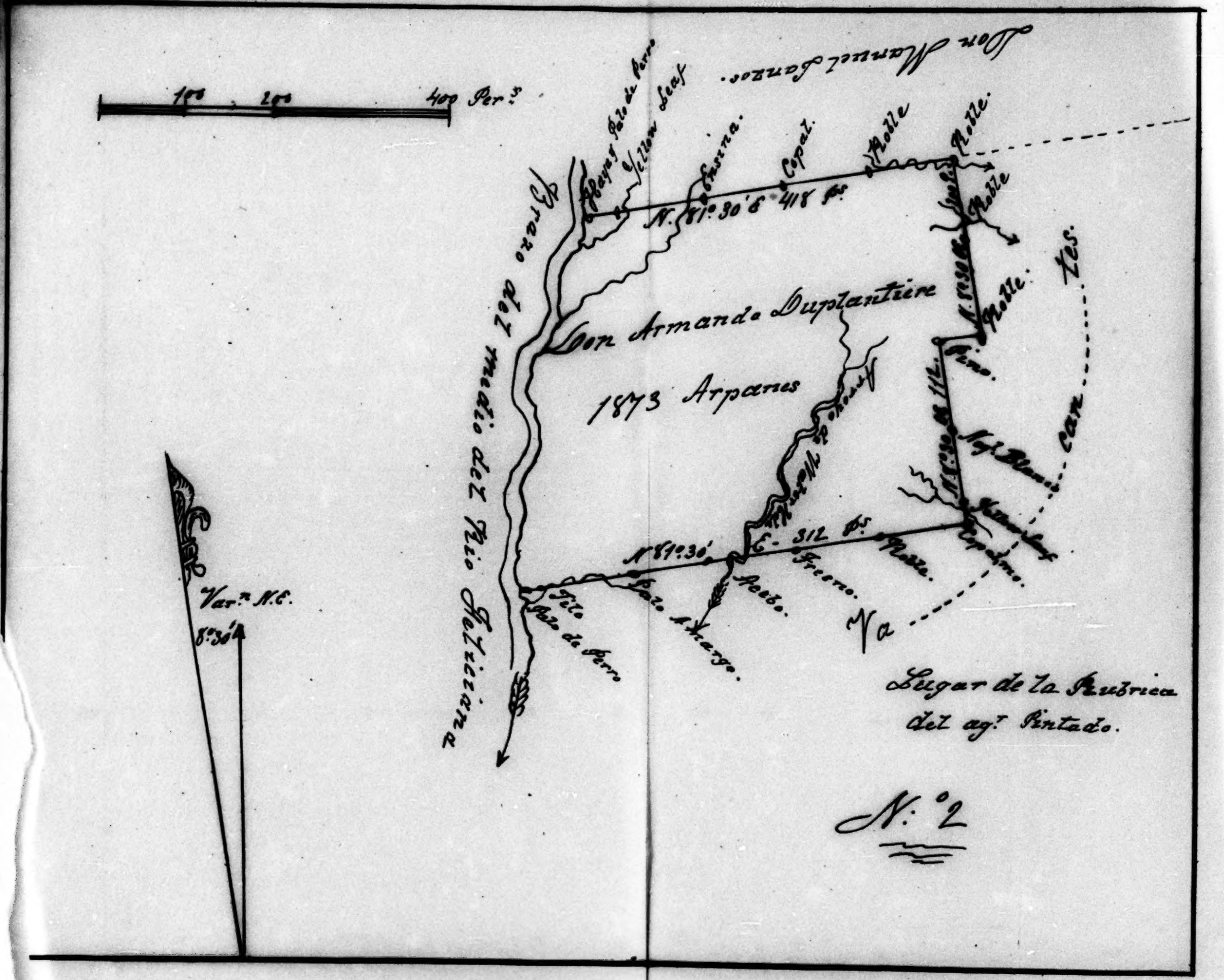
N.º 2[illegible]0 - fon: 201 - U.S. vs Dautrive -



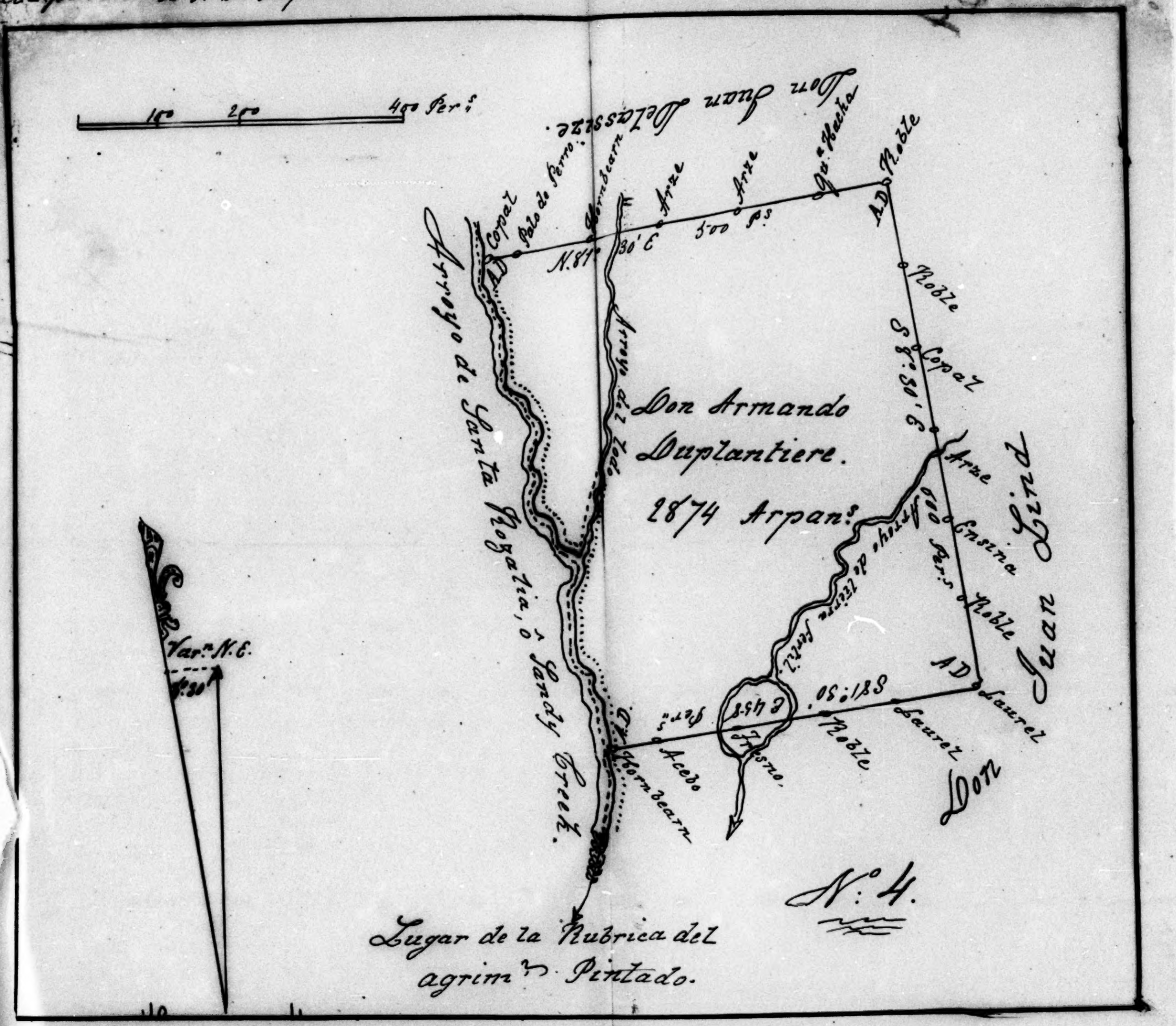
N.º 3.

Lugar de la Rubrica del agrim.r Pintado.

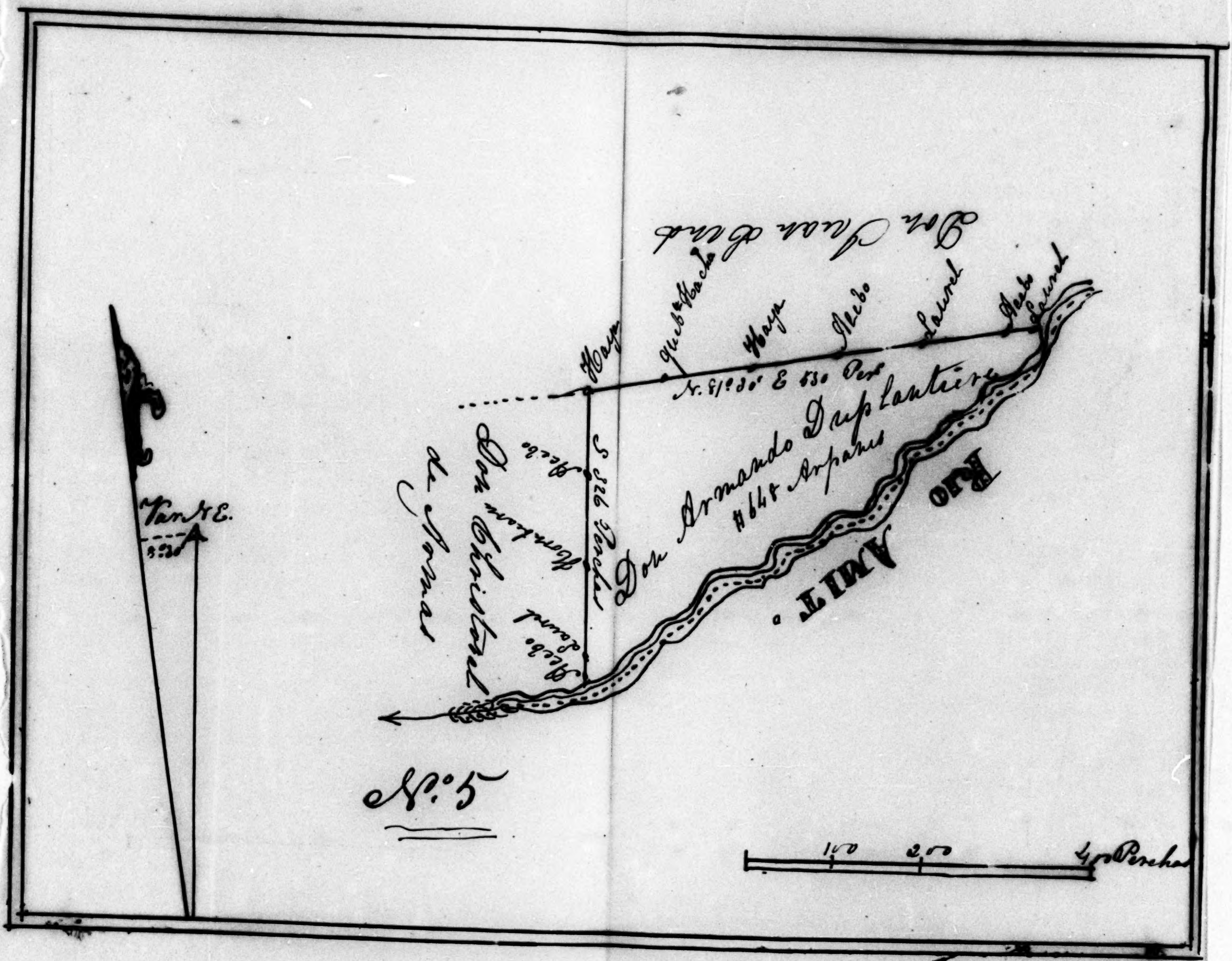
22 - for: 200 - U.S. vs Duplantier



N.o 220 - Spa: 202 - U. S. vs Duplantier -

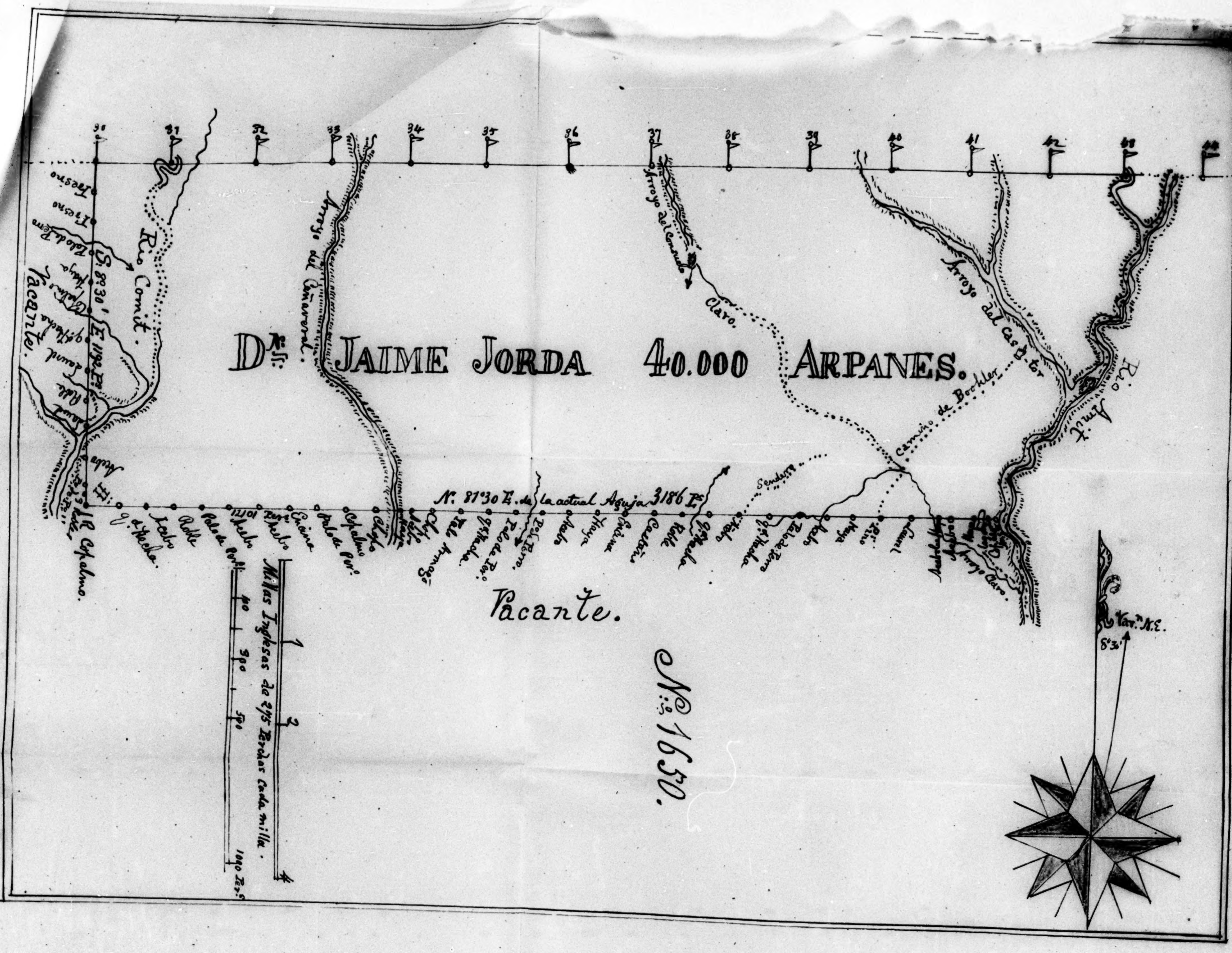


No 2207 pa 203 - U. Sño Duplantier



No. 5

Don Vicente Sebastn. Pintado. —



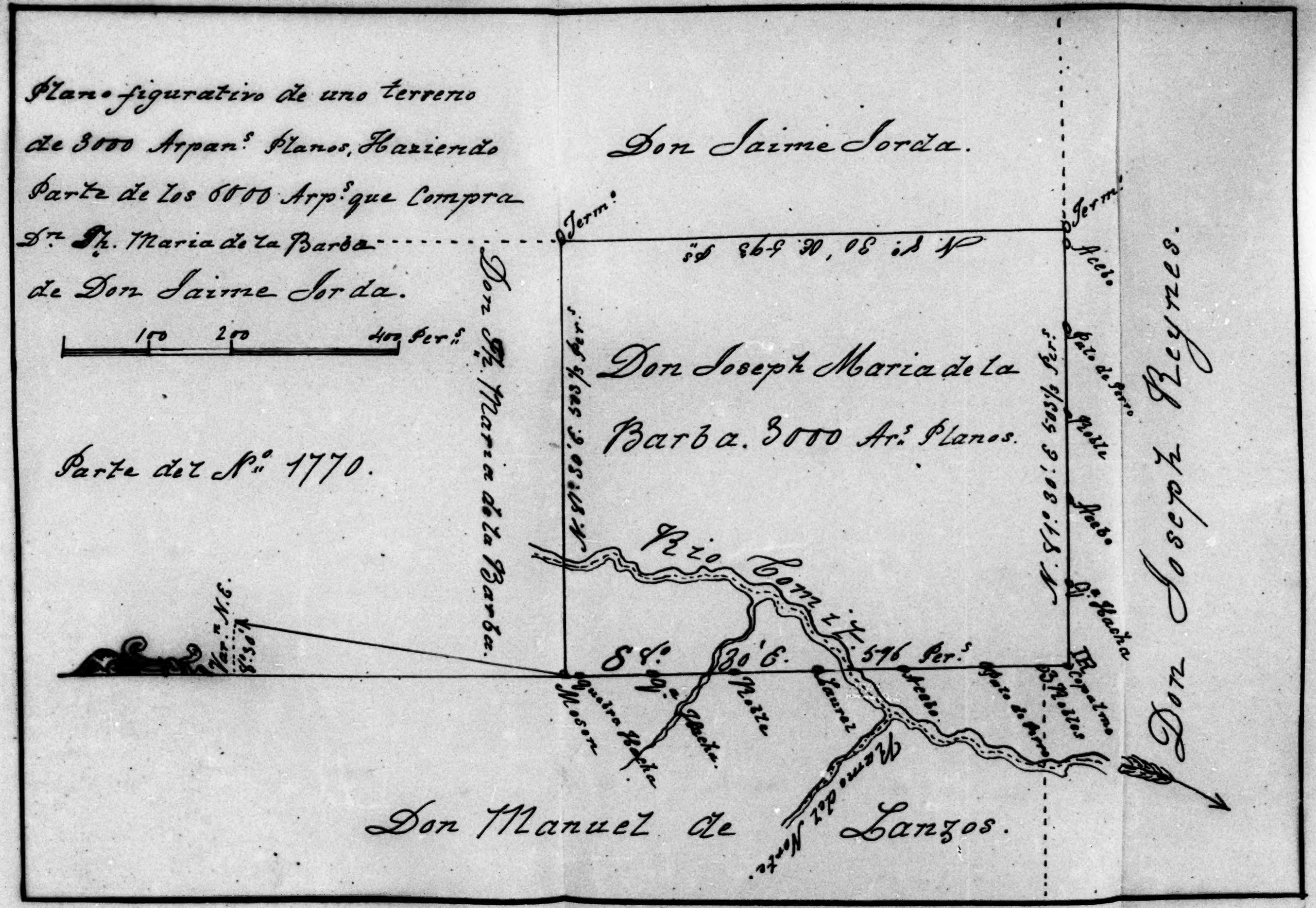
No. 220 U.S. in Supplement.

25

225.

20 - page 230 - U.S. vs Supplantier —

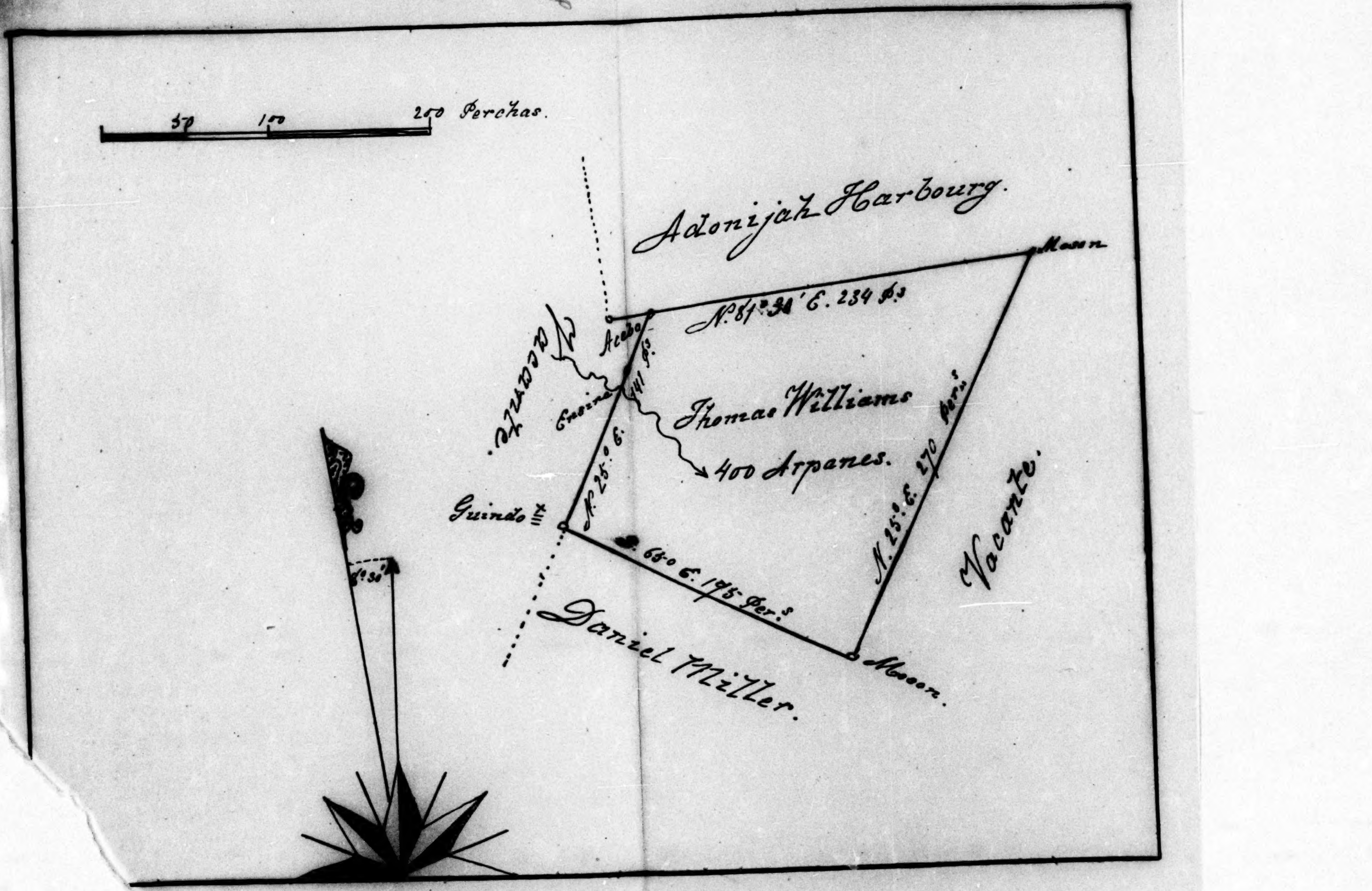
58



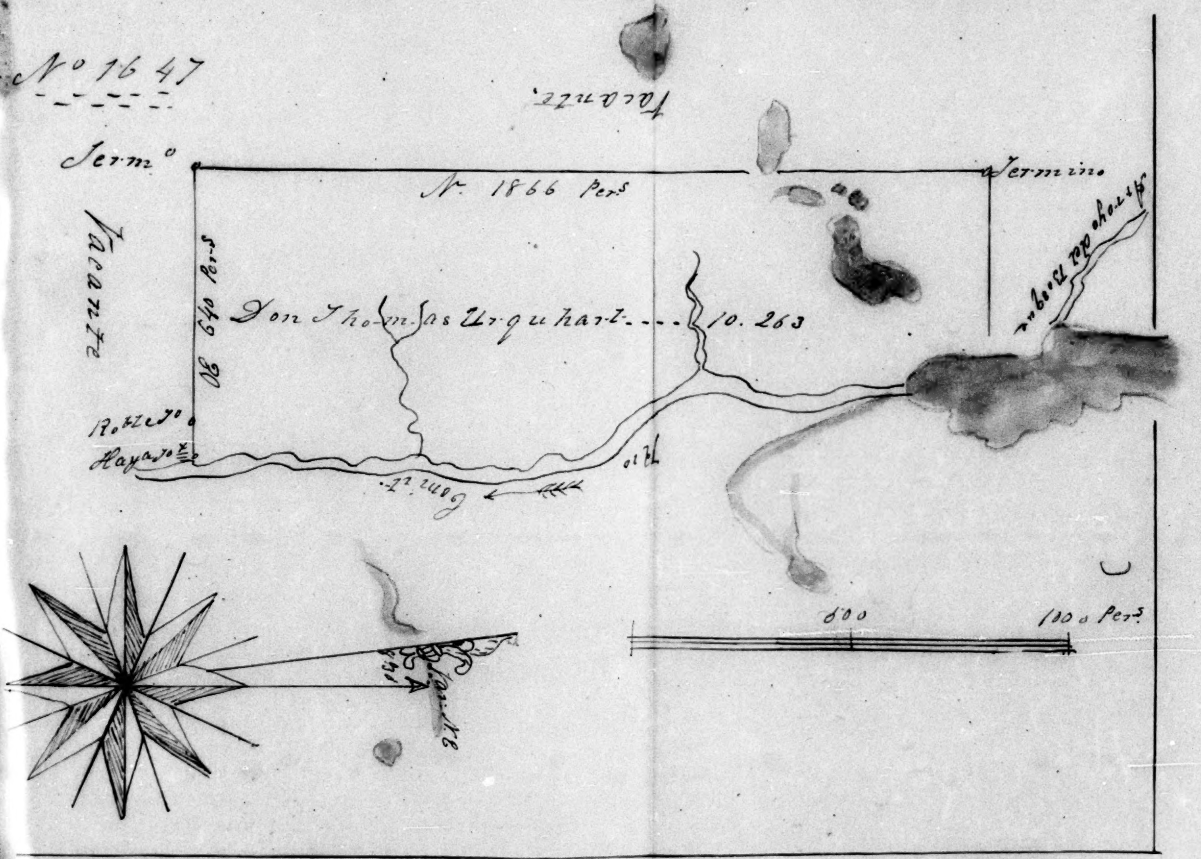
Plano figurativo de uno terreno de 3000 Arpanˢ Planos, Haziendo Parte de los 6000 Arpˢ que Compra Dⁿ Ph. Maria de la Barba de Don Jaime Jorda.

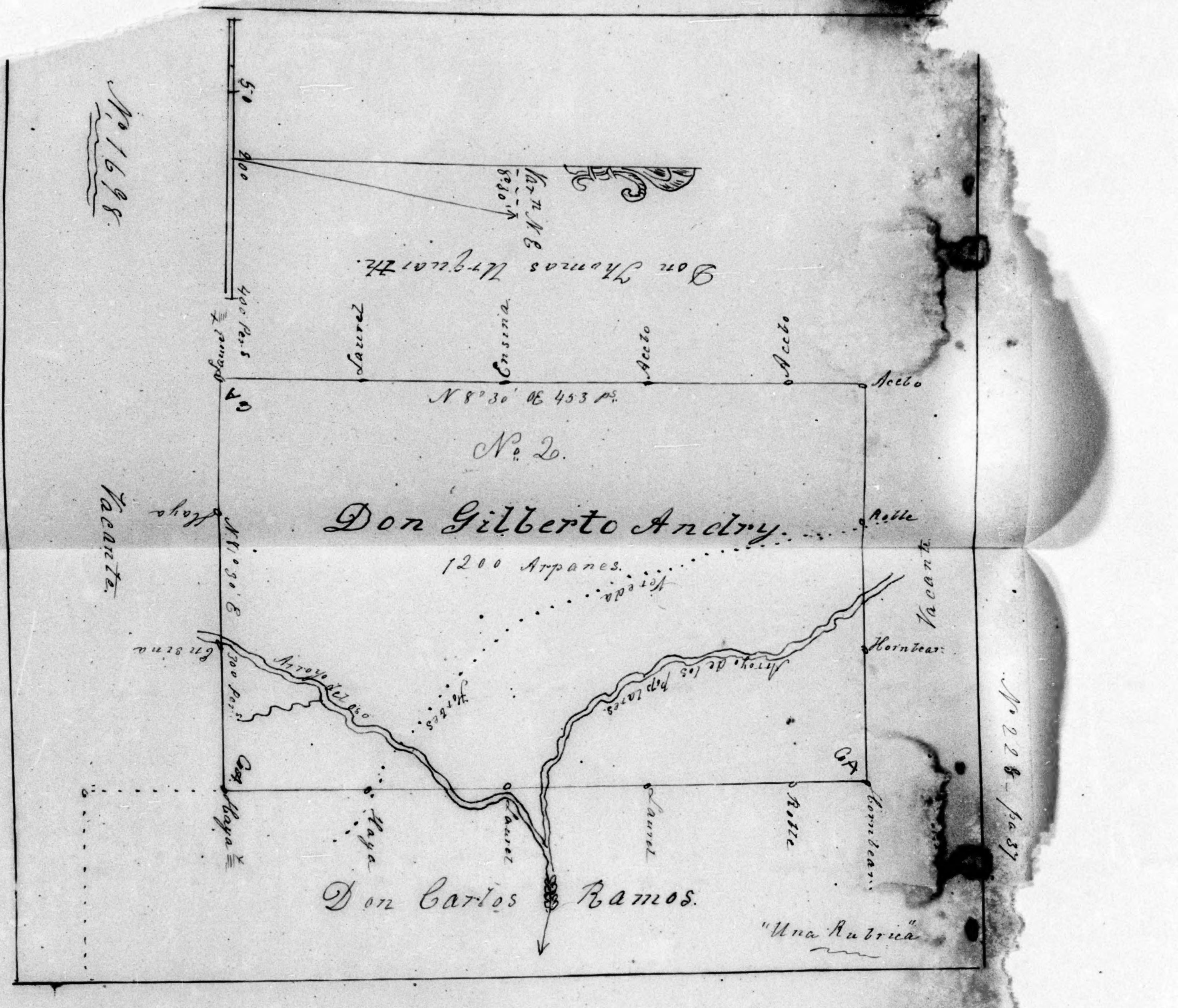
No. 226 - page 246 - U.S. vs Duplantier —

26

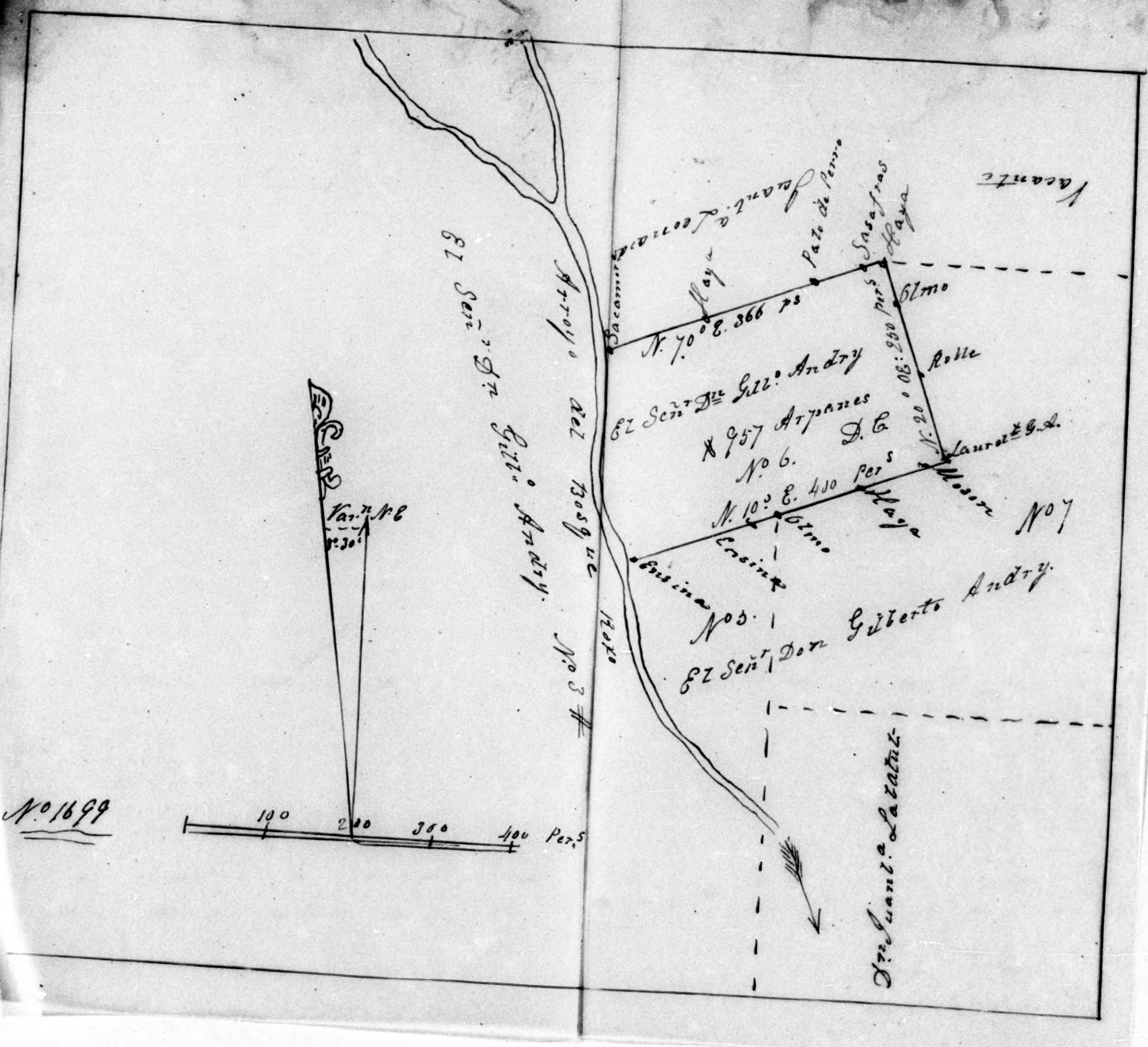


28 - pa. 21


No 1647
Vacante
Termo
N. 1866 Pers
Termino
Arroyo del Bosque
Vacante
S 640 Pers
Don Thomas Urquhart 10.263
Rottedo
Hayado
Rio
Comit.
Vari. NE
6.30
500
1000 Pers

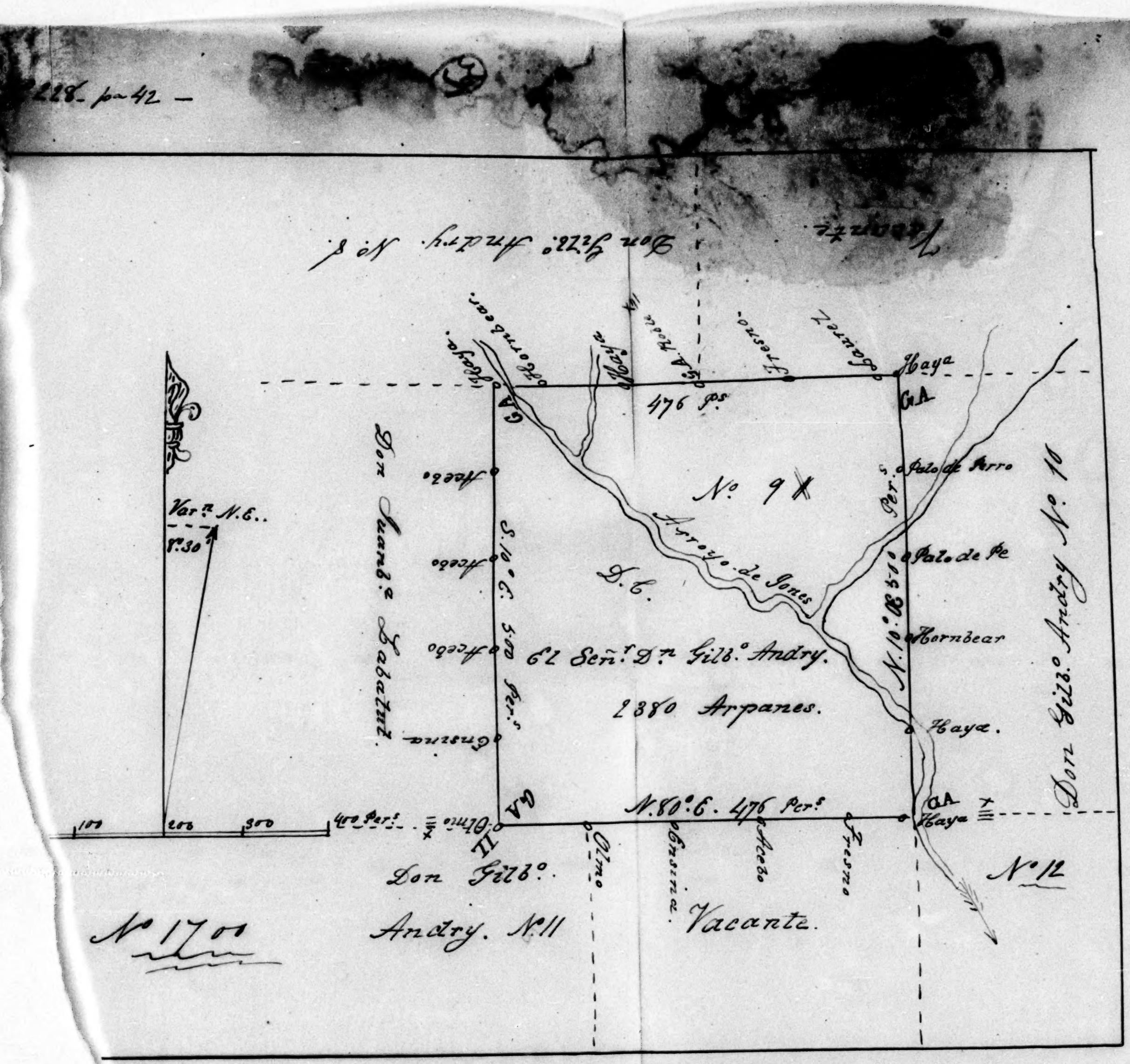

No. 1698.
50
200
400 Pes.
Var. N. N. E. 8°30'
Don Thomas Urquhart.
Saule
Laurel
Encina
Acebo
Acebo
Acebo
N 8°30' E 453 Ps.
No. 2.
Don Gilberto Andry
1200 Arpanes.
Vereda
Vacante.
Haya
N 1°30' E
Encina
300 Pes.
Arroyo del Oso
Yerbes
Arroyo de los Poplares
Roble
Vacante
Hornbear.
Haya
Haya
Laurel
Laurel
Roble
Hornbear.
Don Carlos Ramos.
"Una Rubrica"
No. 228 - pa 87

No. 228- pa-41

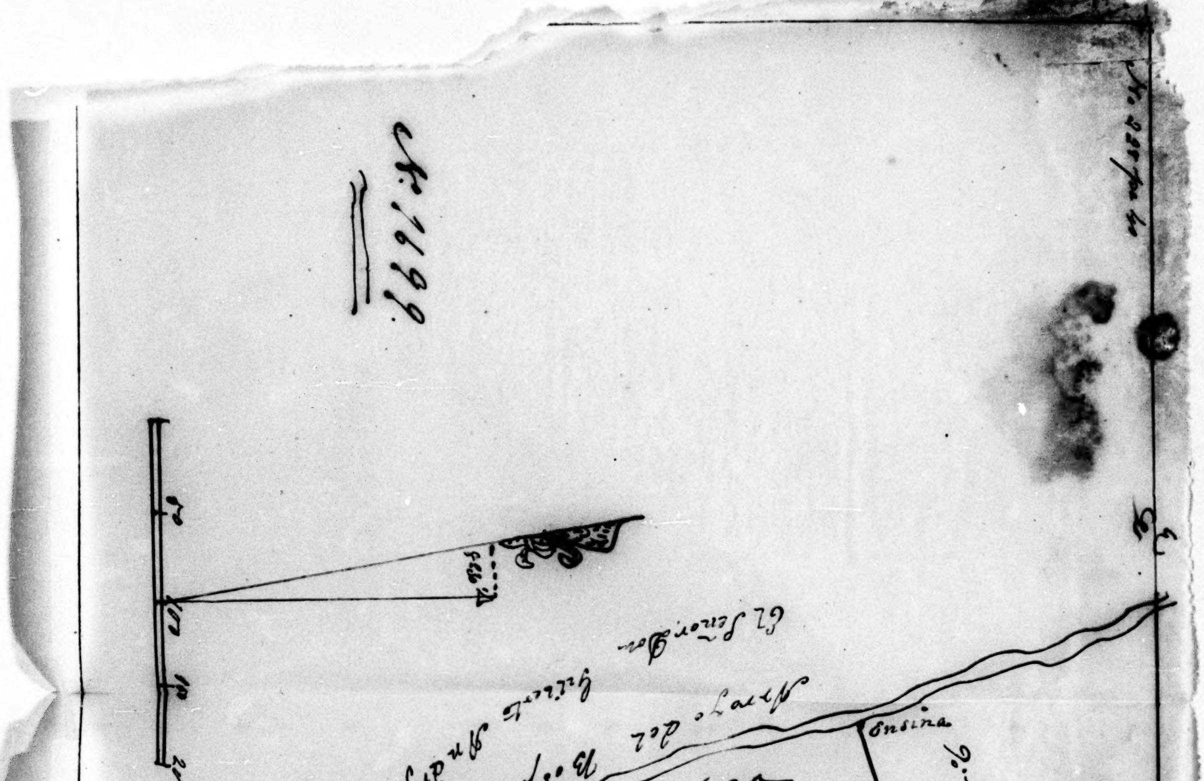


No 1699

228 — p 42 —

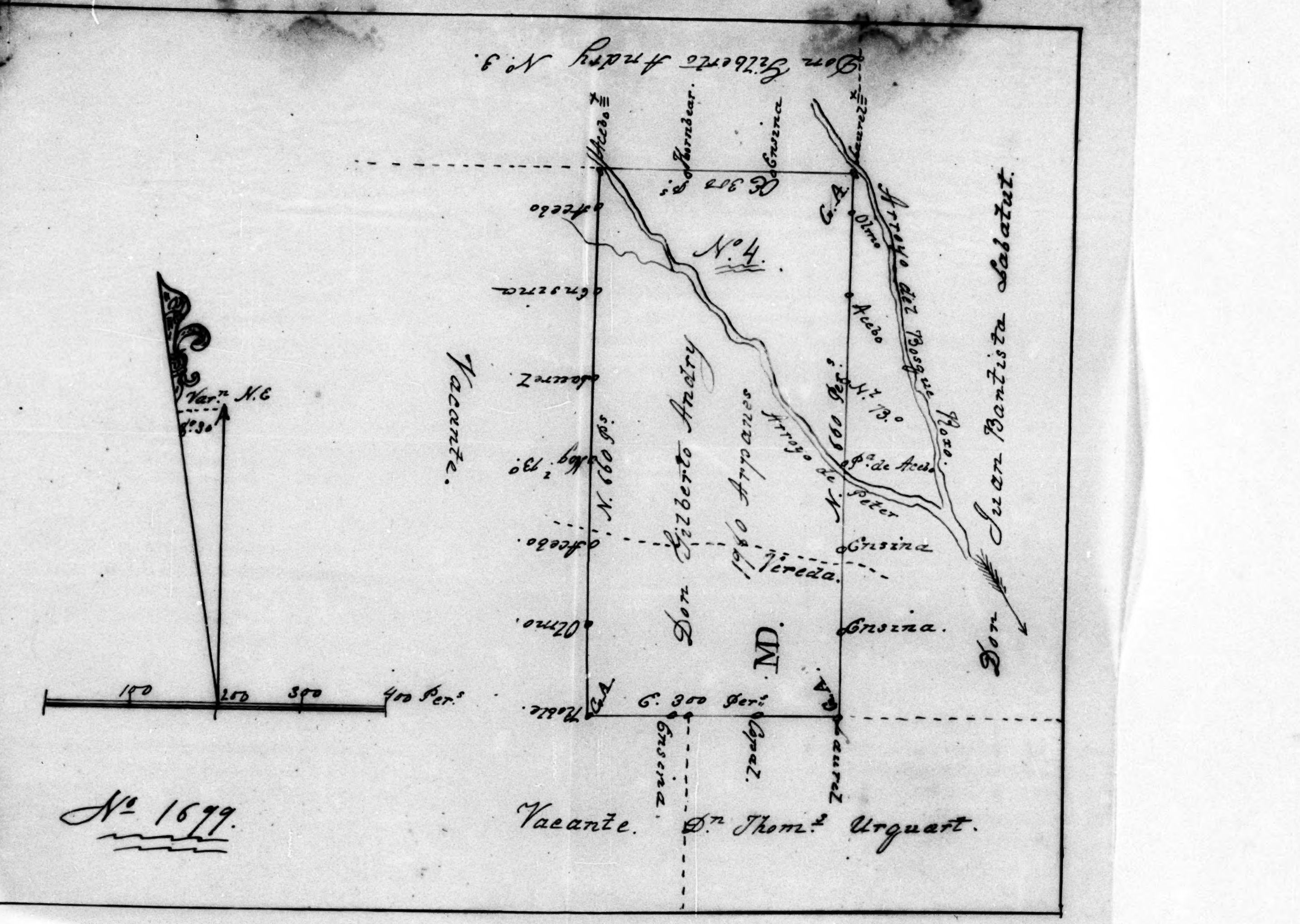

Don Gilb.o Andry. No 8
Vacante.
Hoyo.
Hornbear.
Haya
G.A. Roble
Fresno.
Laurel
Haya
476 Ps.
G.A.
G.A.
Acebo.
Acebo
Acebo
Encina
Olmo
Don Juan B.a Sabatier.
Var.n N.E.
8°.30'
100
200
300
400 Per.s
S. 10° E. 500 Per.s
No. 9
D. E.
Arroyo de Jones
El Señ.r D.n Gilb.o Andry.
2380 Arpanes.
Palo de Fierro
Palo de Fe
Hornbear
Haya.
Per.s
N. 10° O. 500
Don Gilb.o Andry No. 10
G.A.
N. 80° E. 476 Per.s
Olmo
Encina
Acebo
Fresno
G.A.
Haya
II
Don Gilb.o Andry. No. 11
Vacante
No. 12
No. 1700

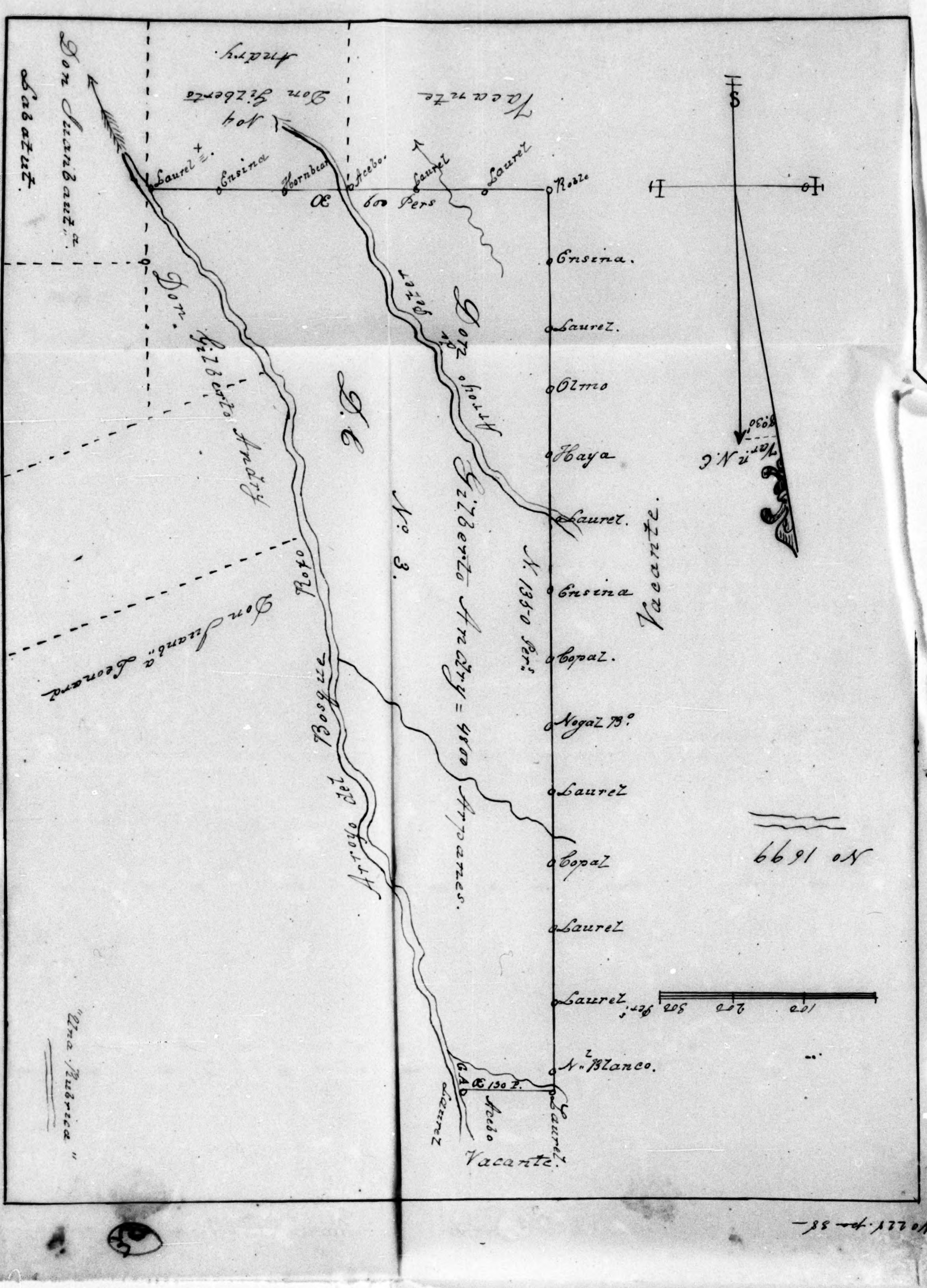
No. 1699



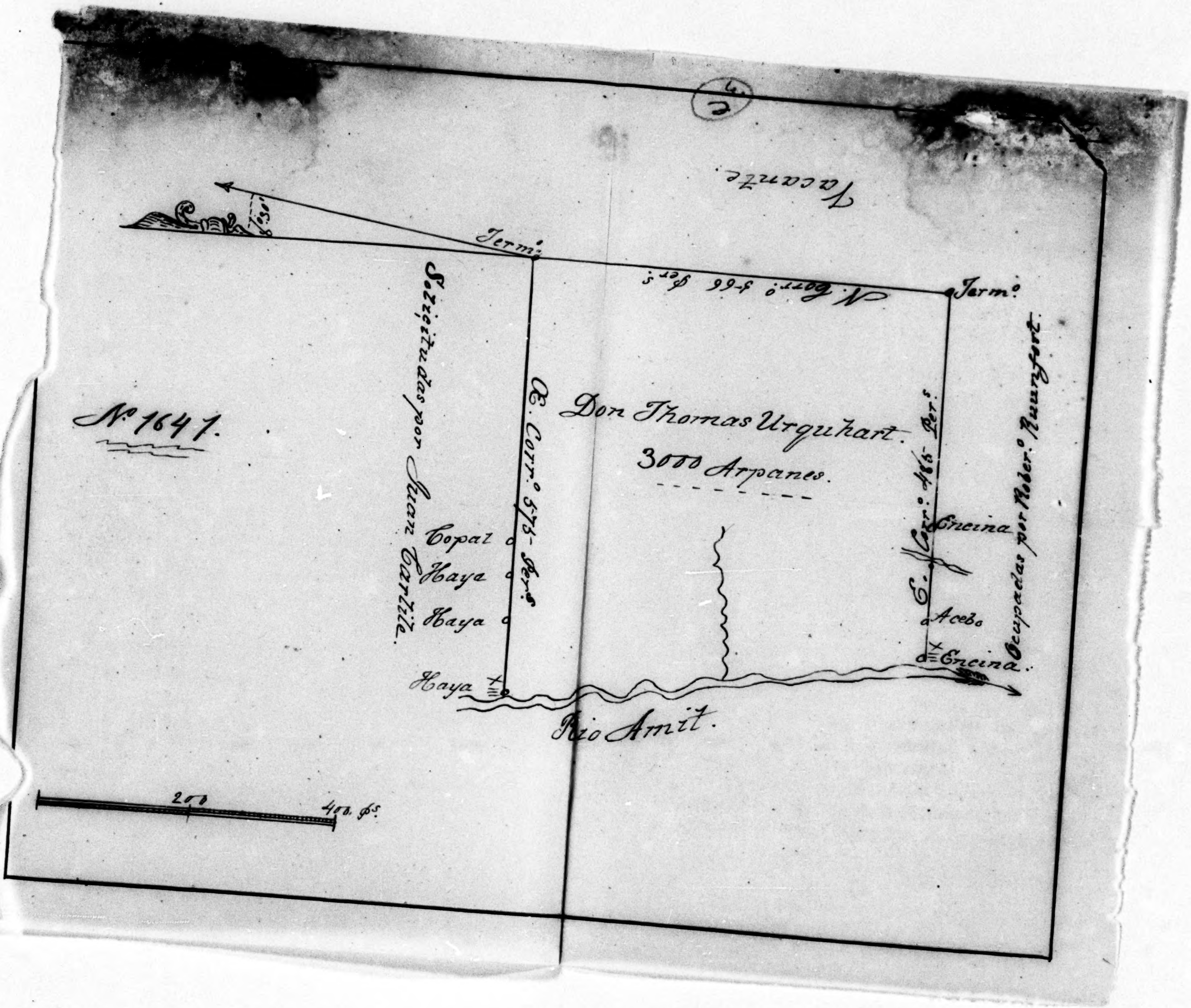
El Señor Don Gilberto Andry
Arroyo del Bosque
Nº 5
El Señ. Don Gilberto Andry
300 Arpanes
D. C
N. 334 Perchas
Ensina
N. 10 E. 134 Perchas
Ensina
Olmo
Roble
Acebo
Acebo
Cypal
Labatut
El Señ. Dn. Gib. Andry
Nº 7
El Señ. Dn. Gilberto Andry Nº 6
Perchas

No 2228 – pa 39 –


Don Gilberto Andry No 3.
Acebo
Hornbear.
Ensina
Laurel
E. 300 Ps.
G.A.
Acebo
Ensina
Laurel
Mag.z 13°
Acebo.
Olmo.
Roble.
N. 660 Ps.
N.o 4.
Don Gilberto Andry
1980 Arpanes
Arroyo de Potter
Vereda.
MD.
Olmo
Acebo
N. 660 Pes.
Mag.z 13°
P.a de Acebo
Ensina
Ensina.
Arroyo del Bosque Roxo.
Don Juan Bantista Labatut.
Vacante.
Var.n N.E
8°30
150
200
300
400 Per.s
G.A.
G. 300 Per.s
G.A.
Ensina
Copal.
Laurel
No 1699.
Vacante. Dn Thom.s Urquart.

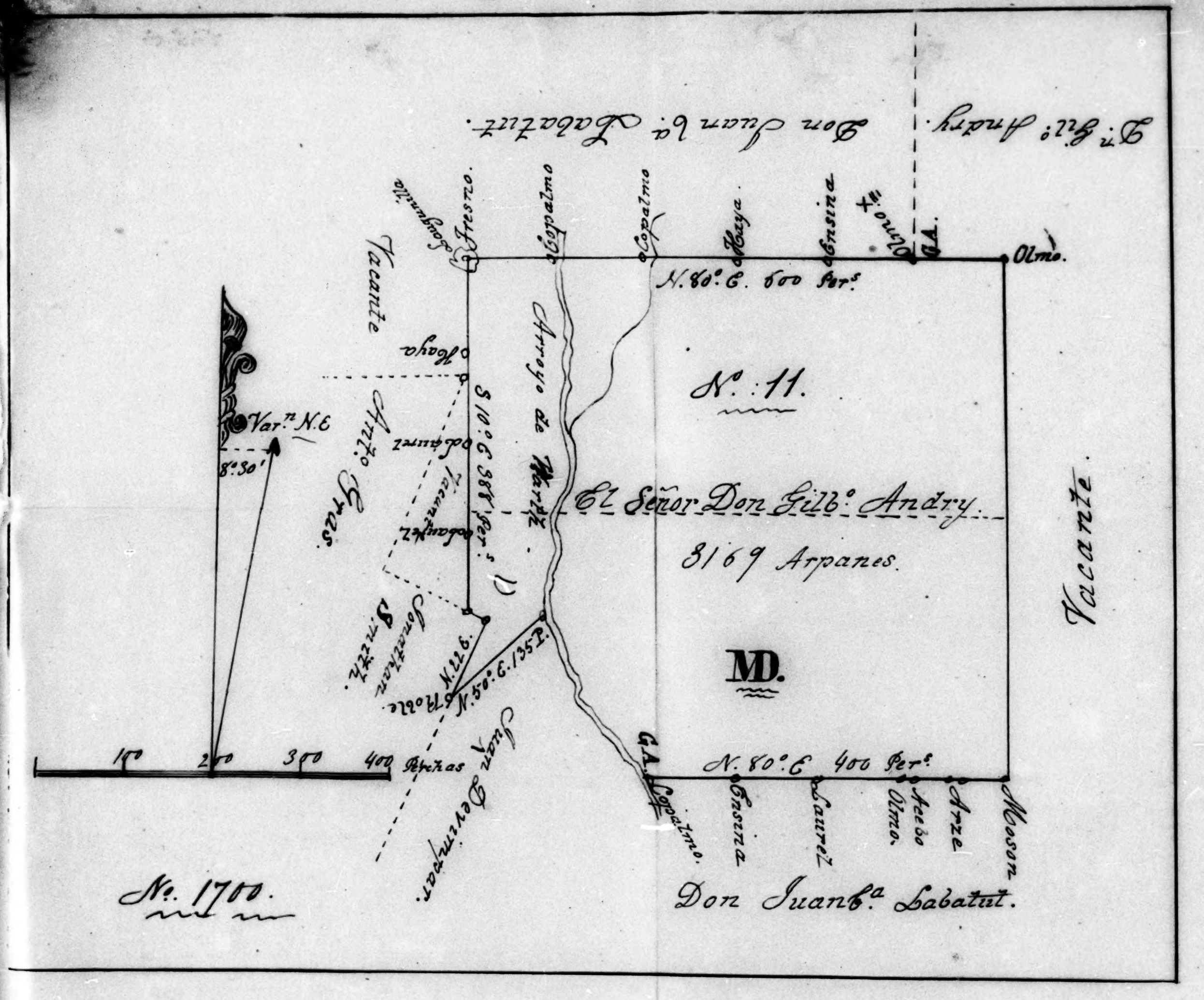

Don Juanbautª Sabatut.
No 4 Don Gilberto Andry
Vacante
Laurel
Ensina
Hoornbeam
Acebo.
Laurel
Laurel
Robble
600 Pers
Ensina.
Laurel.
Olmo
Haya
Laurel.
Ensina
Copal.
Nogal Bº.
Laurel
Copal
Laurel
Laurel
Nº Blanco.
Laurel
Acebo
Laurel
G.A.
130 P.
Vacante.
Vacante.
N. 1350 Pers.
Don Gilberto Andry = 4800 Arpanes.
Arroyo de Gilberto
Don Gilberto Andry
D. 6
Nº. 3.
Roto
Arroyo del Bosque
Don Juanbª Leonard
"Una Rubrica"
No 1699
S
Varⁿ N.E 9°30'
100 200 300 Pers.

No 221 p. 88

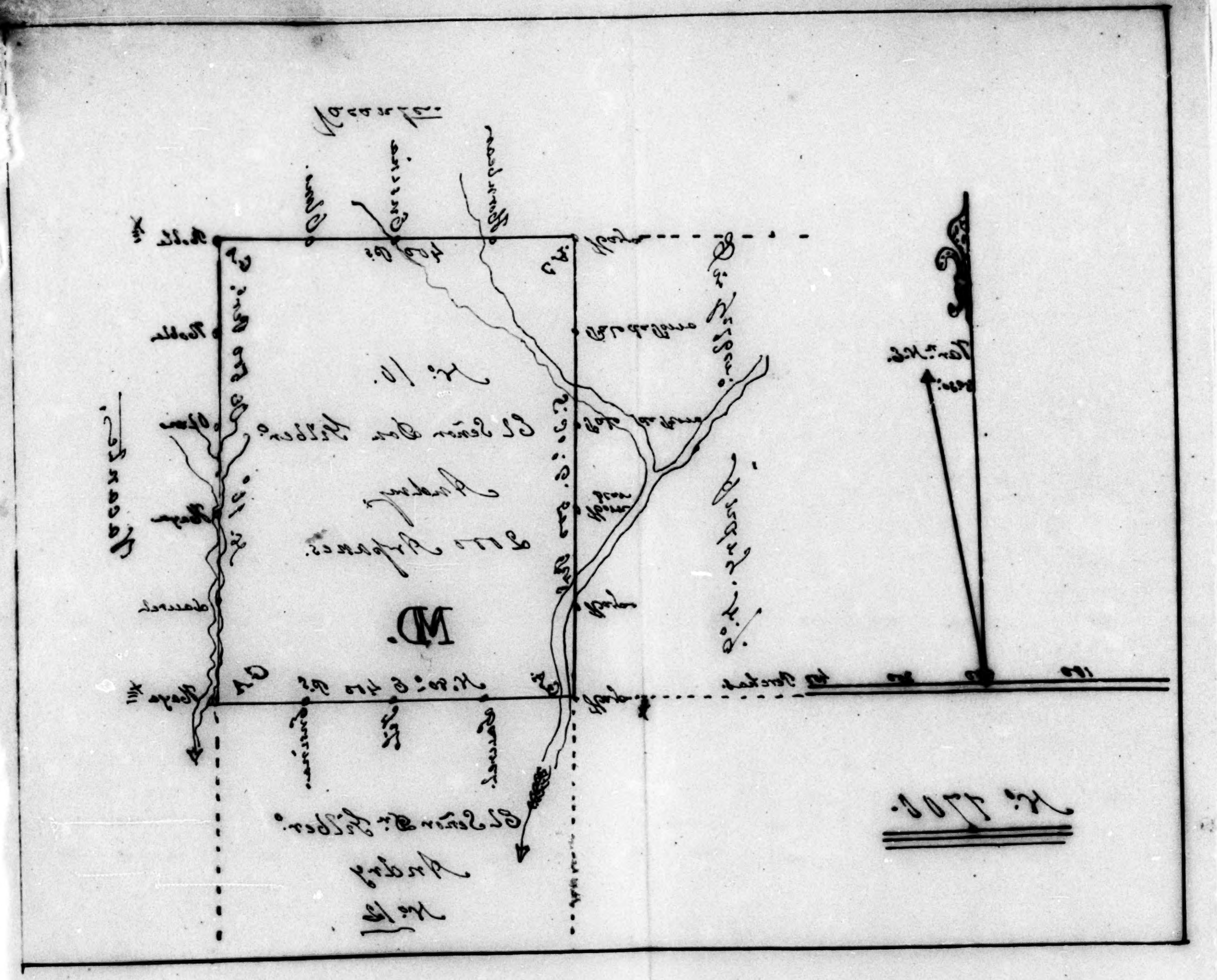

Vacante.
8° 30'
Term.o
N. Corr.o 566 Per.s
Term.o
Solicitadas por Juan Carlile.
O. Corr.o 575 Per.s
N.o 1641.
Don Thomas Urquhart.
3000 Arpanes.
E. Corr.o 465 Per.s
Ocupadas por Rober.o Runnfort.
Copal
Haya
Haya
Haya
Encina
Acebo
Encina.
Rio Amit.
200
400 p.s

69 pa: 44.

37

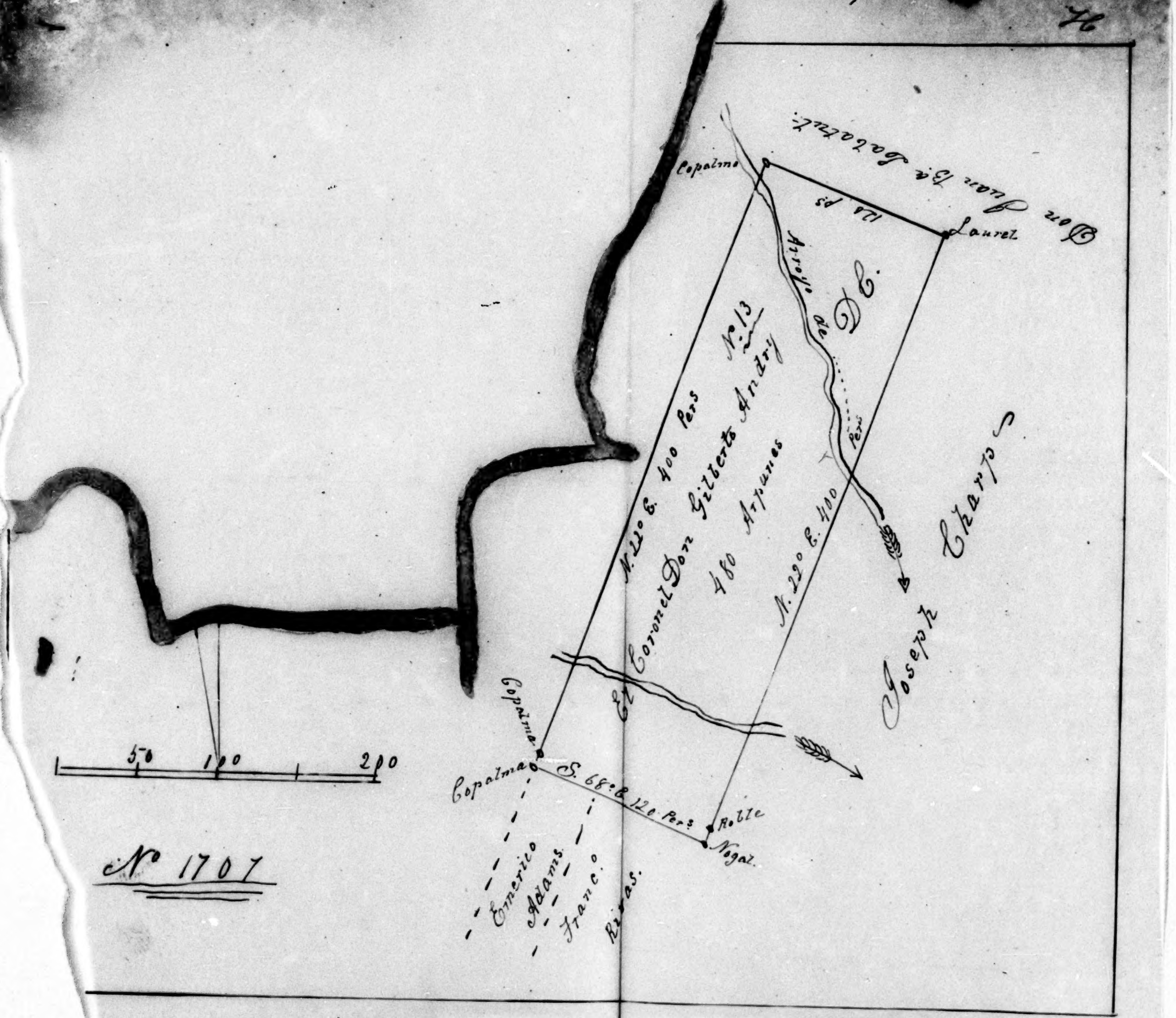


Dⁿ Gilᵒ Andry.
Don Juan Bᵃ Labatut.
Sanguinillo
Fresno.
Copalmo
Copalmo
Haya
Ensina
Olmo Xᵉᵐ
G.A.
Olmo.
N. 80° E. 600 Perˢ
Vacante
Haya
Arroyo de Marle.
N°. 11.
Var.ⁿ N.E
8°30'
Antᵒ Gras.
Laurel
S 10° E 388 Perˢ
Vacante
Laurel
El Señor Don Gilbᵒ Andry.
8169 Arpanes.
Vacante
Jonathan Smith.
N. 22 E.
N. 50° E. 135 P.
Roble
MD.
G.A.
100 200 300 400 Perchas
N. 80° E 400 Perˢ
Juan Devimpar.
Copalmo.
Ensina
Laurel
Olmo.
Acebo
Arze
Moson
N°. 1700.
Don Juan Bᵃ Labatut.

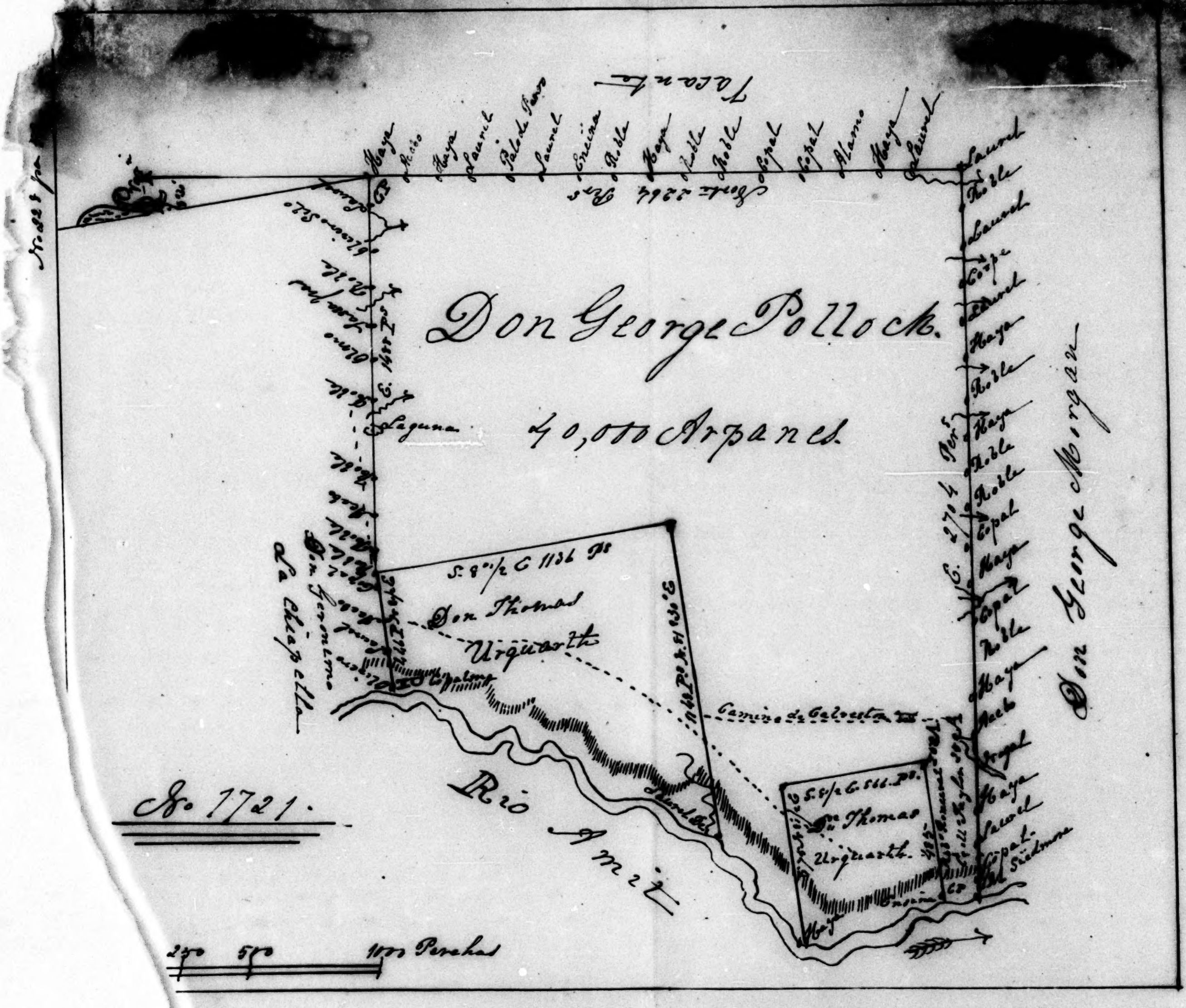


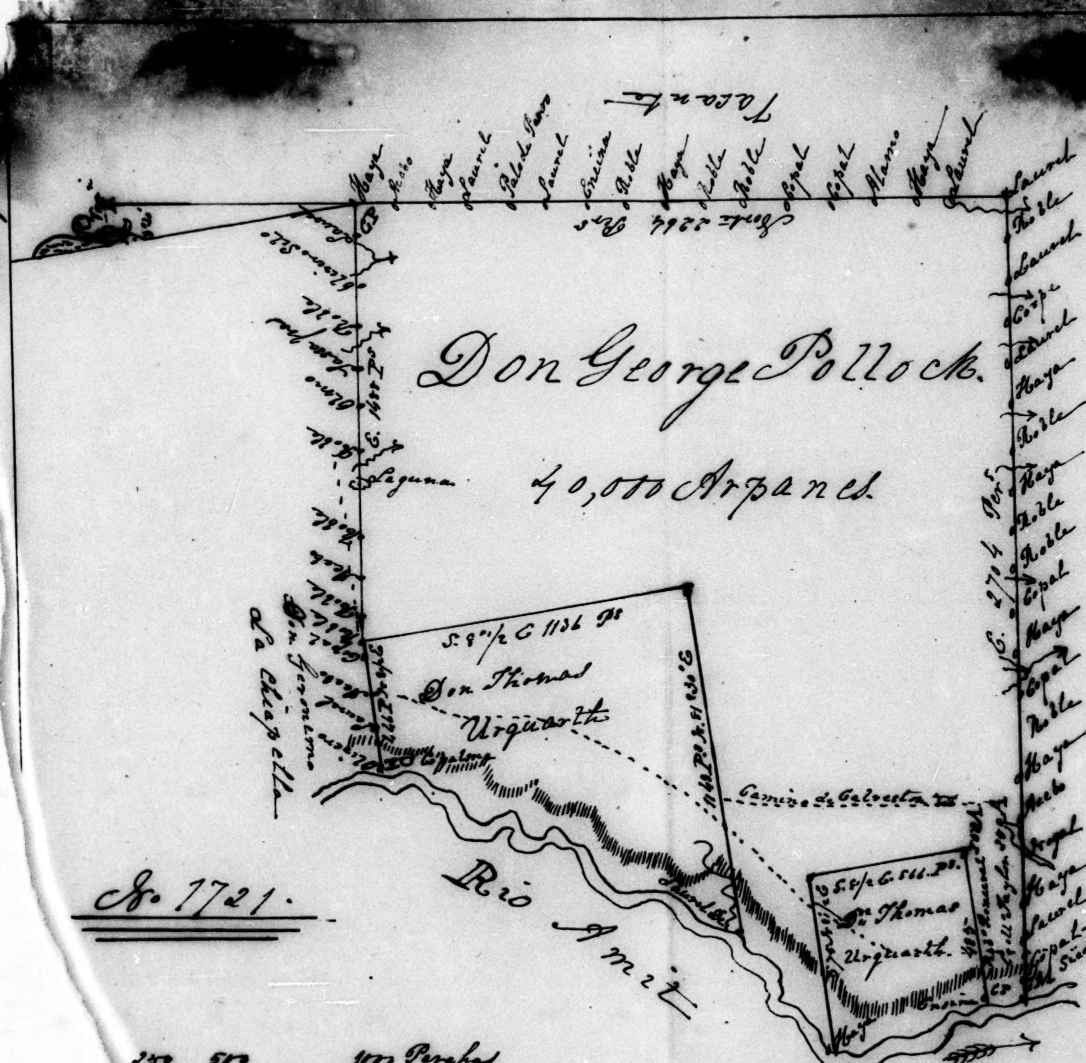
N.o 228 pa: 45:

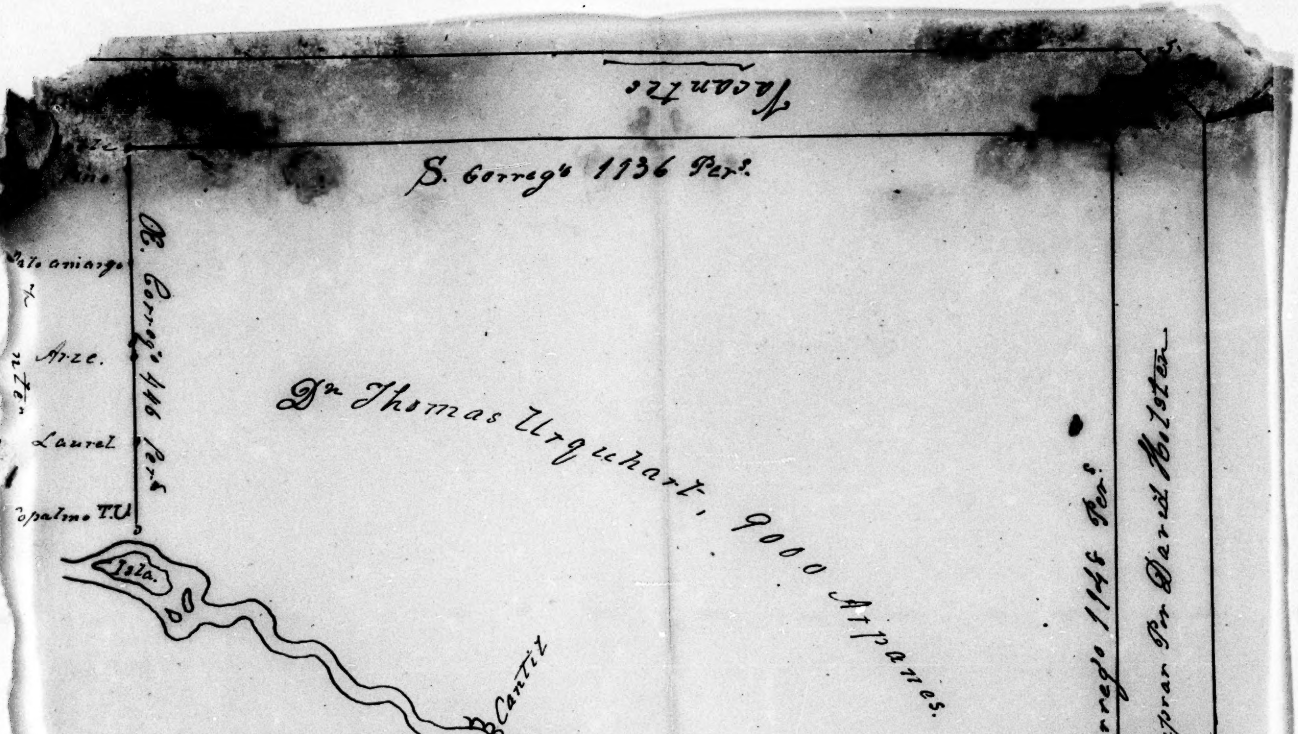
76



N.o 1707


Don George Pollock.
40,000 Arpanes.
Don Thomas Urquarth
Dn Thomas Urquarth.
Don George Morgan
Don Geronimo La Chiapella
Rio Amit
Camino de Galveston
Tacanto
Norte 2264 Pes
S. 8° 1/2 E 1136 Po
S. 8° 1/2 E. 566. Po.
E. 2704 Per
Laguna
Haya
Roble
Laurel
Palo de Pan
Encina
Copal
Alamo
Sidmore
1000 Perchas
250
500
No 1721.

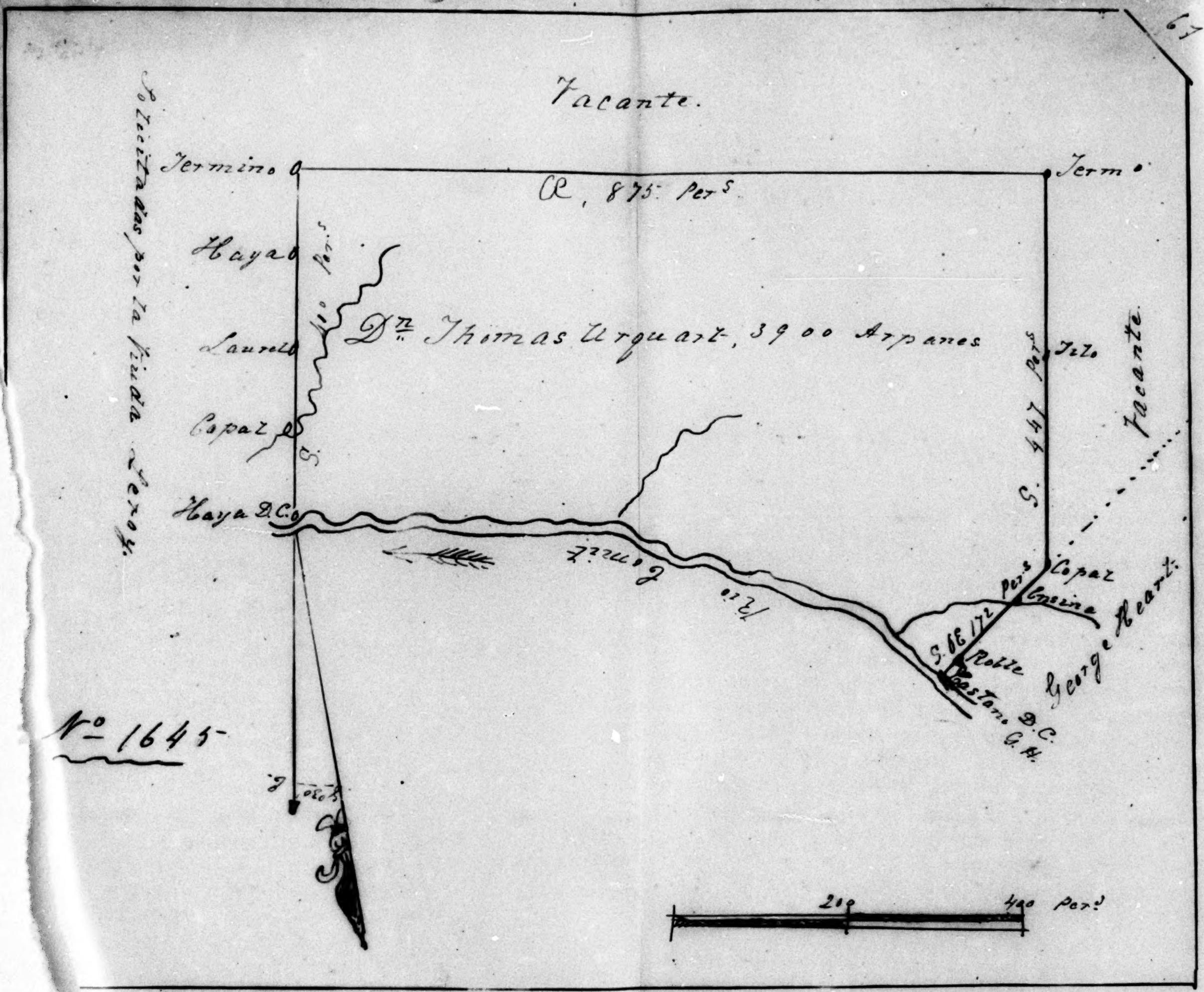
Don George Pollock.
40,000 Arpanes.
Don Thomas Urquarth
Don Thomas Urquarth
Don George Morgan
Don Geronimo
La Chiapella
Río Amit
Camino de Galveston
Tacanto
Laguna
Haya
Laurel
Palo de Pavo
Encina
Roble
Copal
Alamo
Corpe
Fresno
Laurel Bl.
Encina
Stedmore
S. 8½ E. 1136 Ps
S. 8½ E. 566. Ps.
E. 2704 Pers.
N. 1400 Ps
No. 1721.
250
500
1000 Perchas


Vacantes
S. Correg.o 1136 Per.s
N. Correg.o 446 Per.s
Palo amargo
Arze.
Laurel
Copalmo T.U
Isla.
D.n Thomas Urquhart, 9000 Arpanes.
Cantil
Rio
Amit.
Cantil
E. Correg.o 1148 Per.s
Solicitadas Comprar Por David Holsten
Azebo
Haya
Laurel
DC. DH.
No. 1642.
200
400 Per.s
No 228 - pa 62.

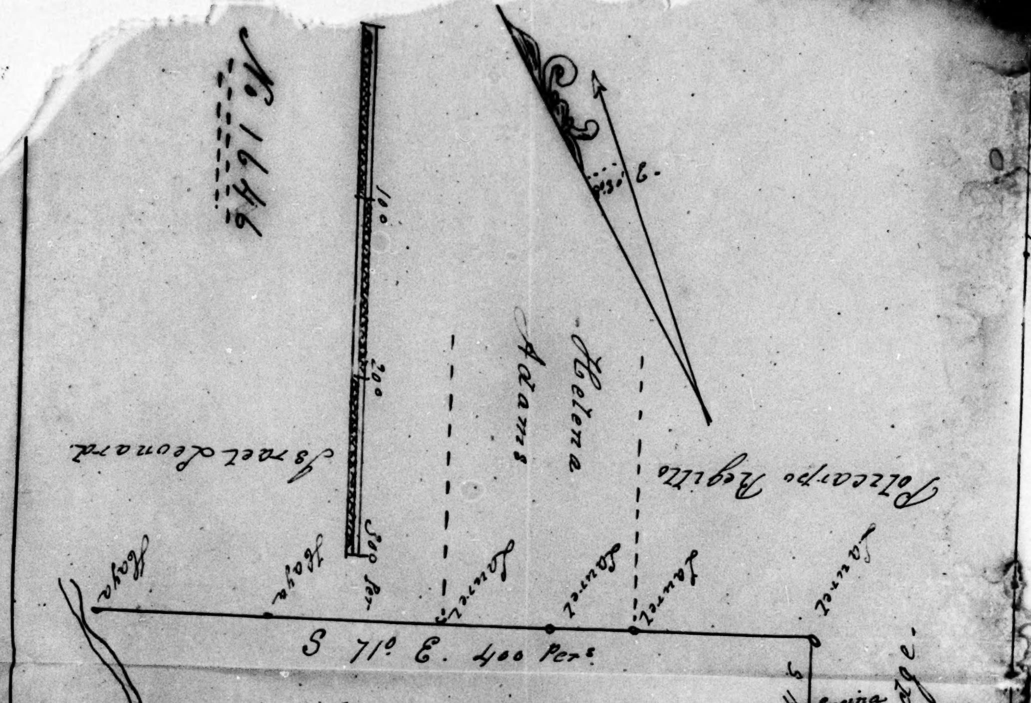
No 228 - fol 44

58

67



No 1645

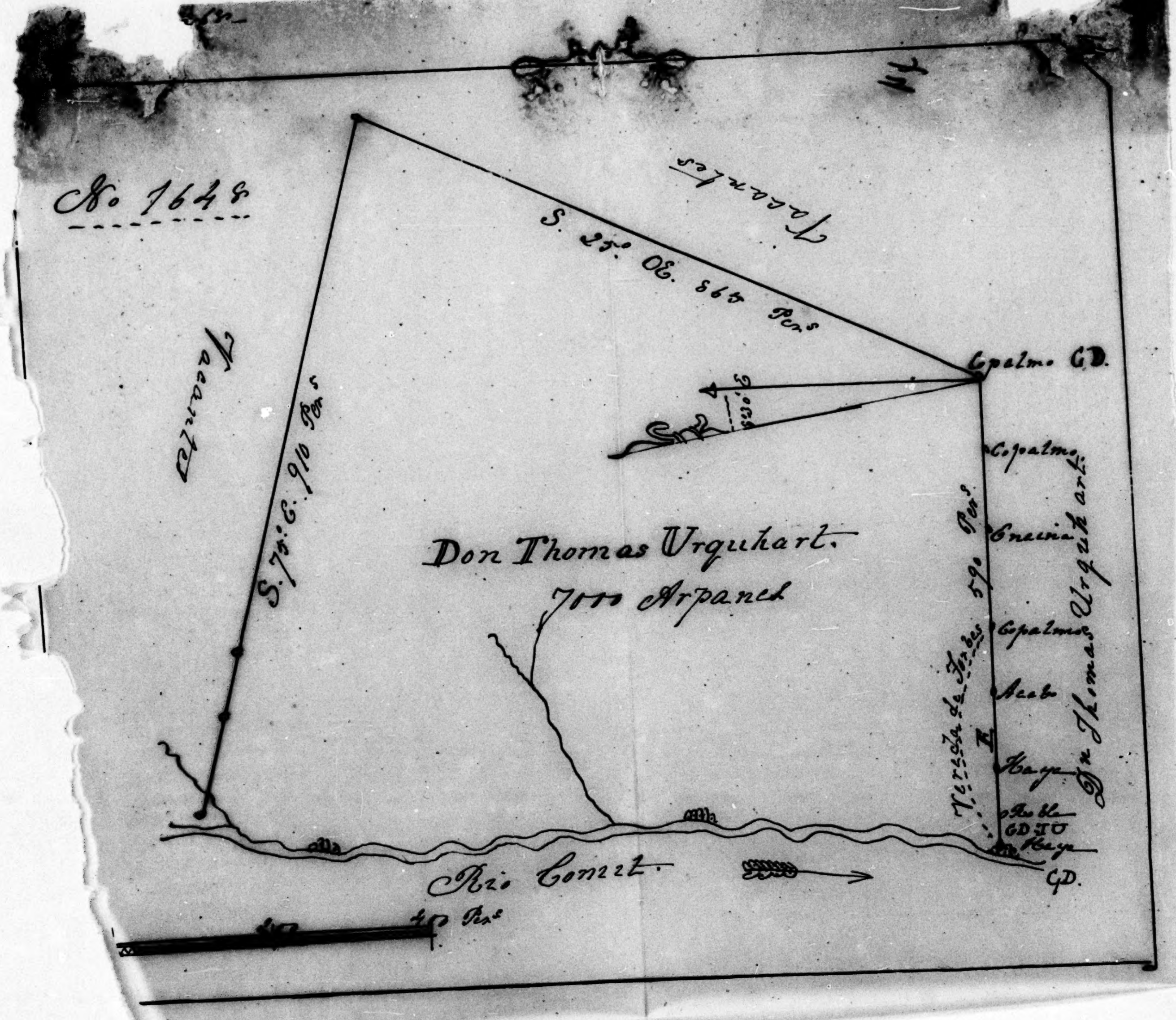


No 288 - fo: 66 -

E3

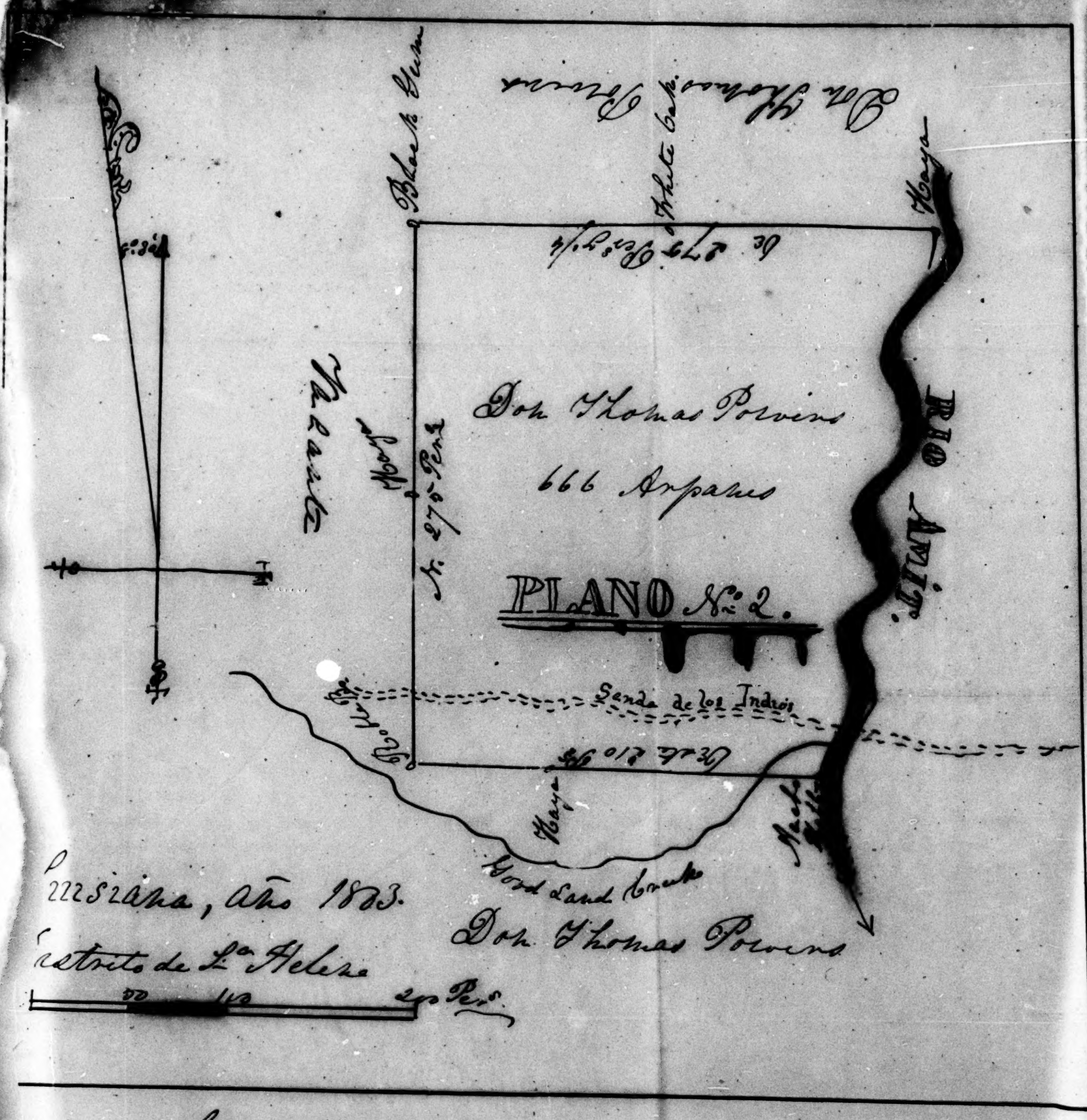
62

No 1648


Vacantes
S. 25° OE. 498 Pers
Vacante
S. 75° E. 910 Pers
Copalmo GD.
8°30' E
Copalmo
Encina
Copalmo
Acebo
Haya
Roble
GD
Haya
GD.
590 Pers
Vereda de Forbes
Dn Thomas Urquhart
Don Thomas Urquhart.
7000 Arpanes
Rio Comeet.
200
400 Pers

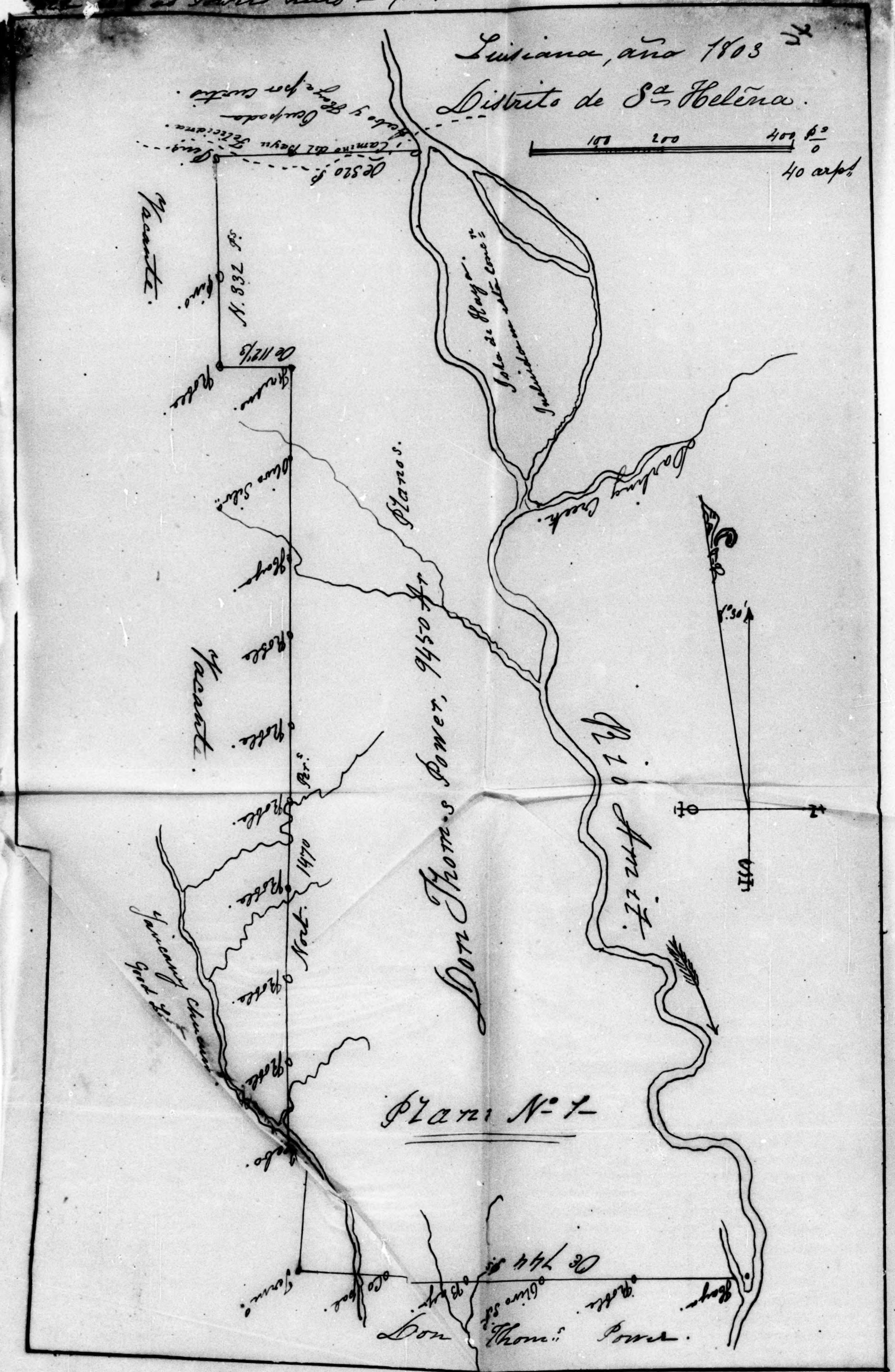
229 Au 5 to Porveins Lu[illegible]

p. 14



Sentado en el Libro No 5 folio 66.
(Signed) Carlos Trudeau

[illegible] Power's heirs – pa: 13



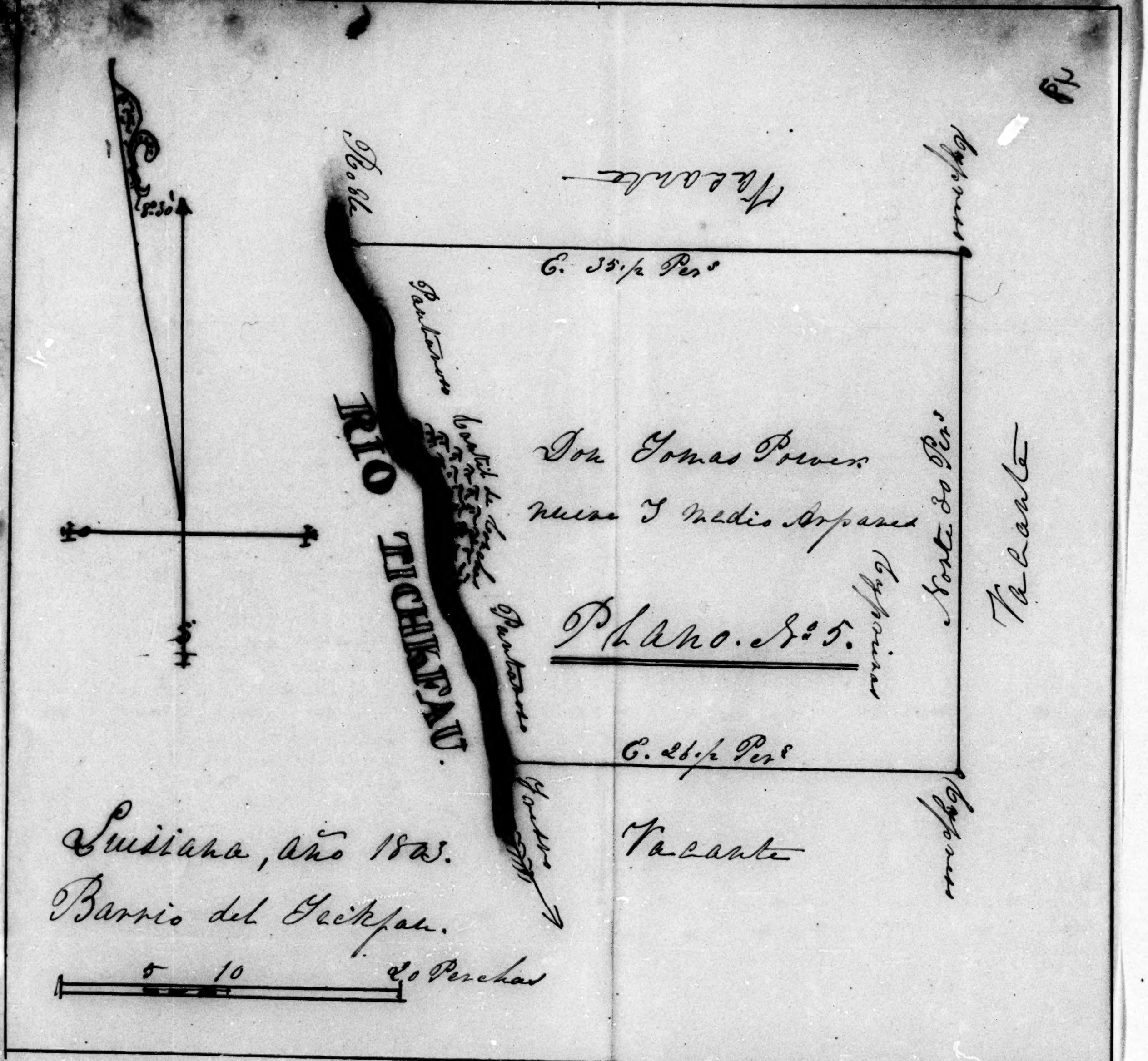
Luisiana, año 1803

Distrito de Sta Helena

Sentado en libro No. 5 fol.o 65.

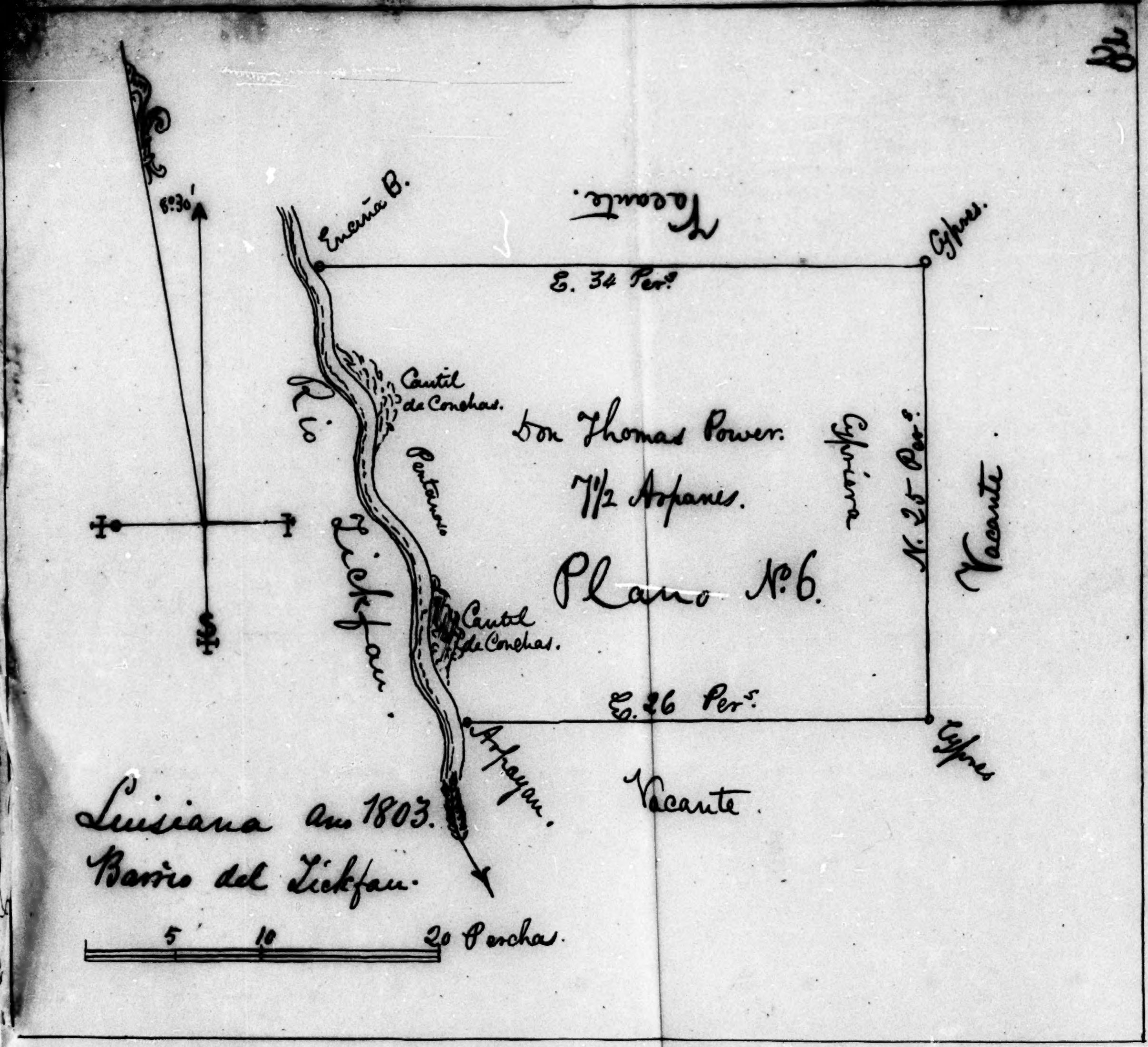
(Signed) Carlos Trudeau –

No. 129 U. S. vs Powers heirs



Sentado en el libro No 5, fol: 69
(Signed) Carlos Trudeau.

28

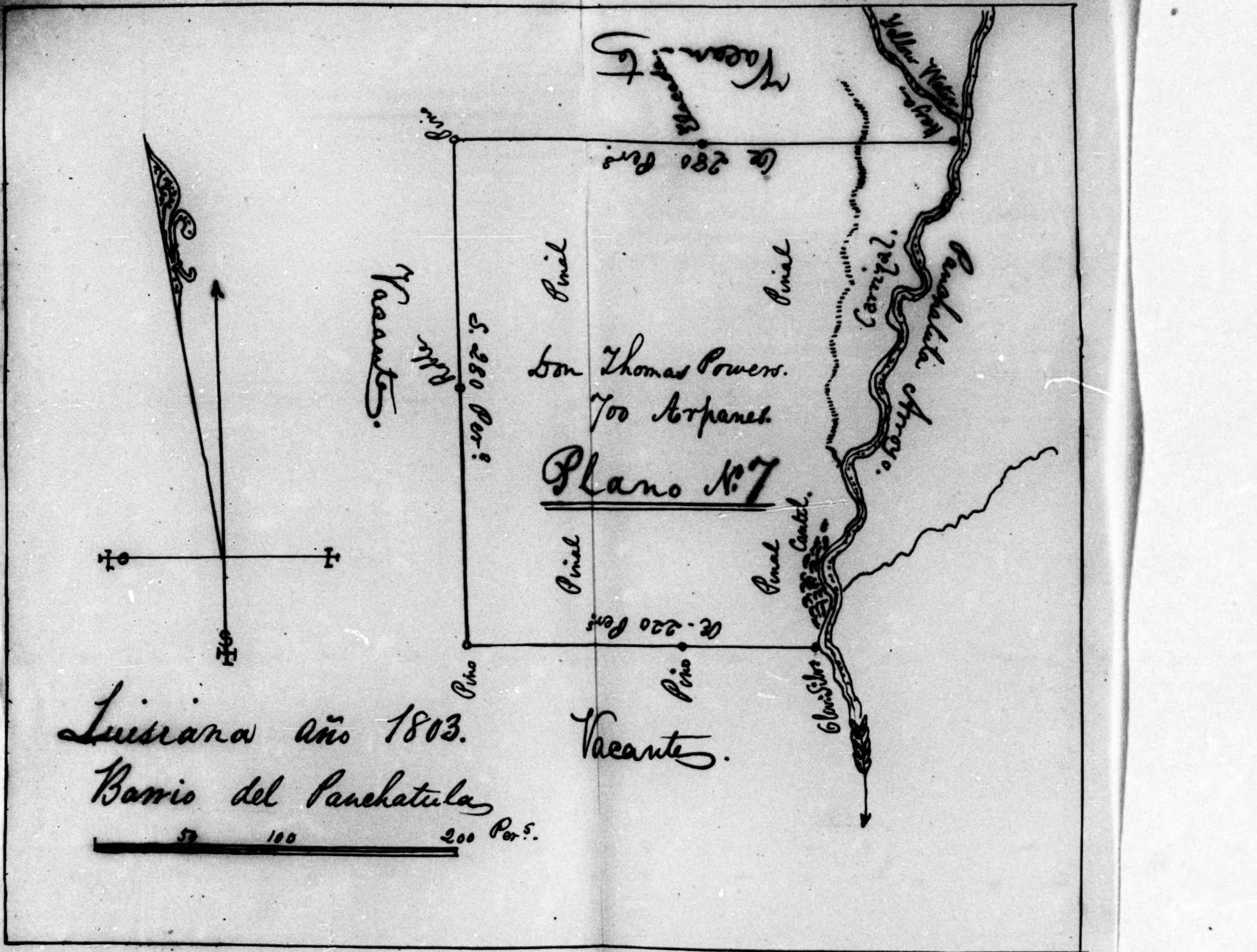


Plano Nº 6.

Luisiana año 1803.
Barrio del Tickfau.

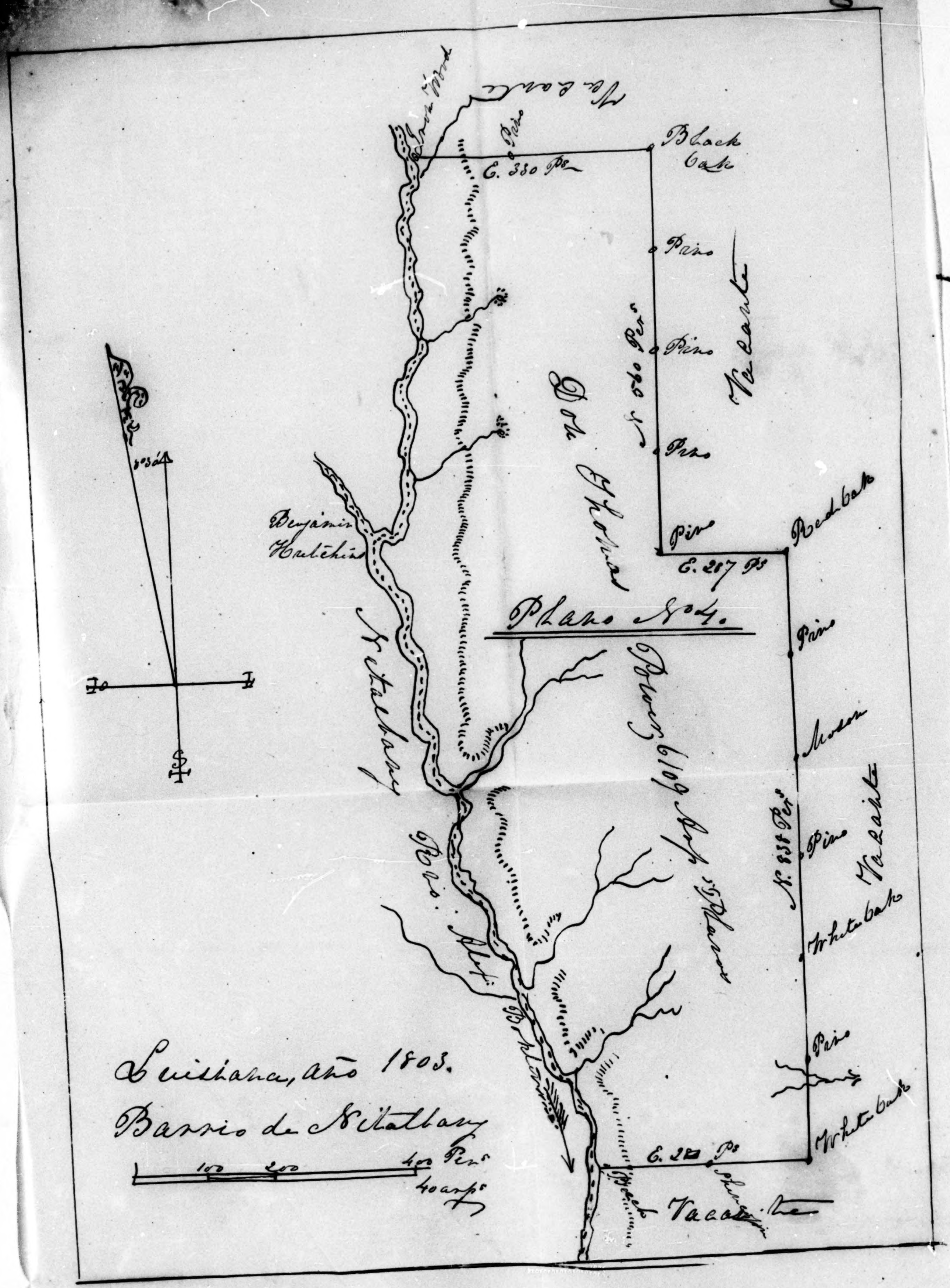
Sentado en el libro Nº 5. folº 70

No 229 page 19
W. S. vs Powers's heirs



Libro No. 5, folo. 72.

No 229 U S vs Porrecio Lirio 16



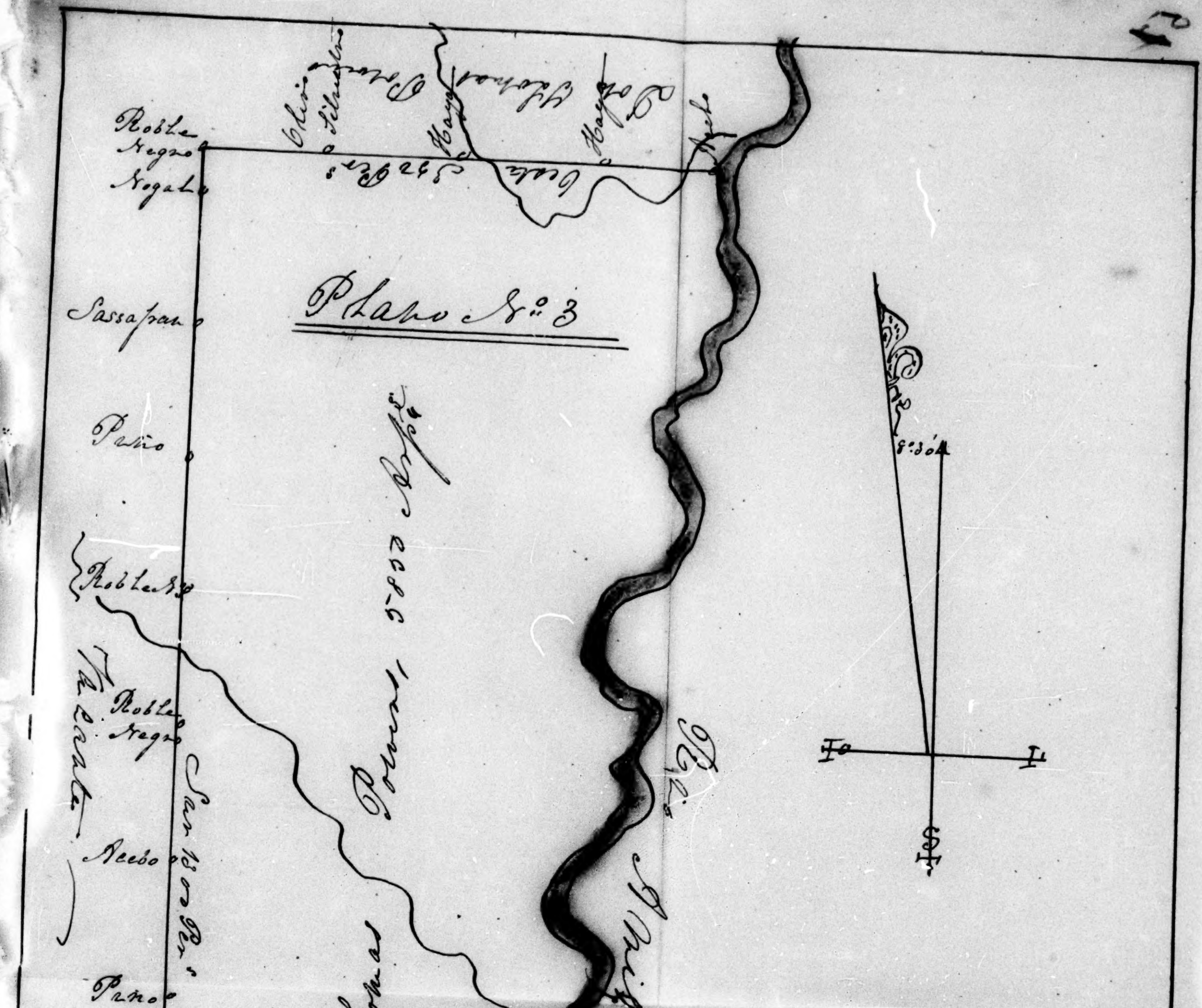
Luisiana, año 1803.

Barrio de Nitallany

Sentado en el libro No. 5, folio 68.

(Signed) Carlos Trudeau

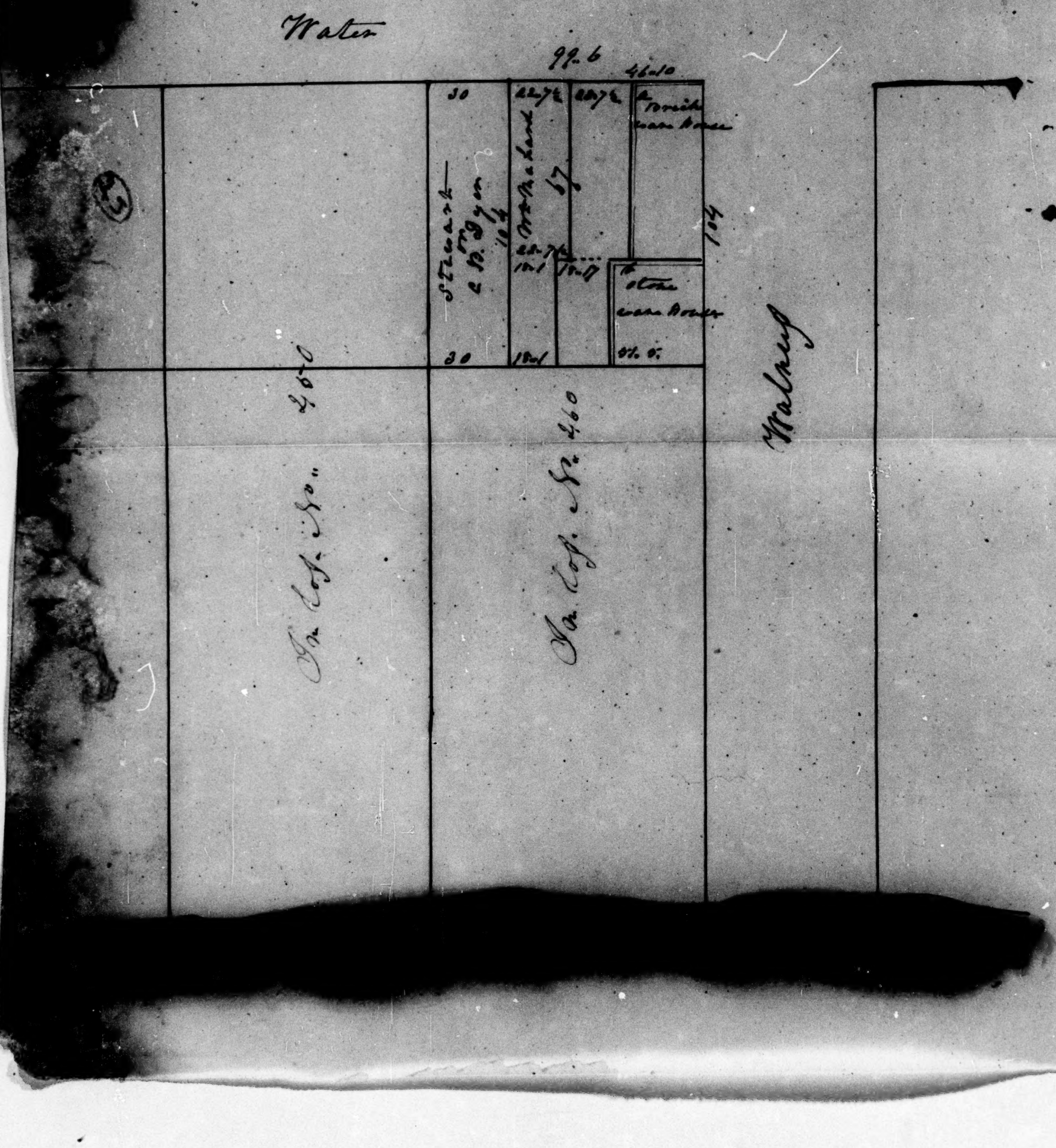
No 229 U S vs Polvers Lewis pa 10



Sentado en el Libro No 5 fol. 67

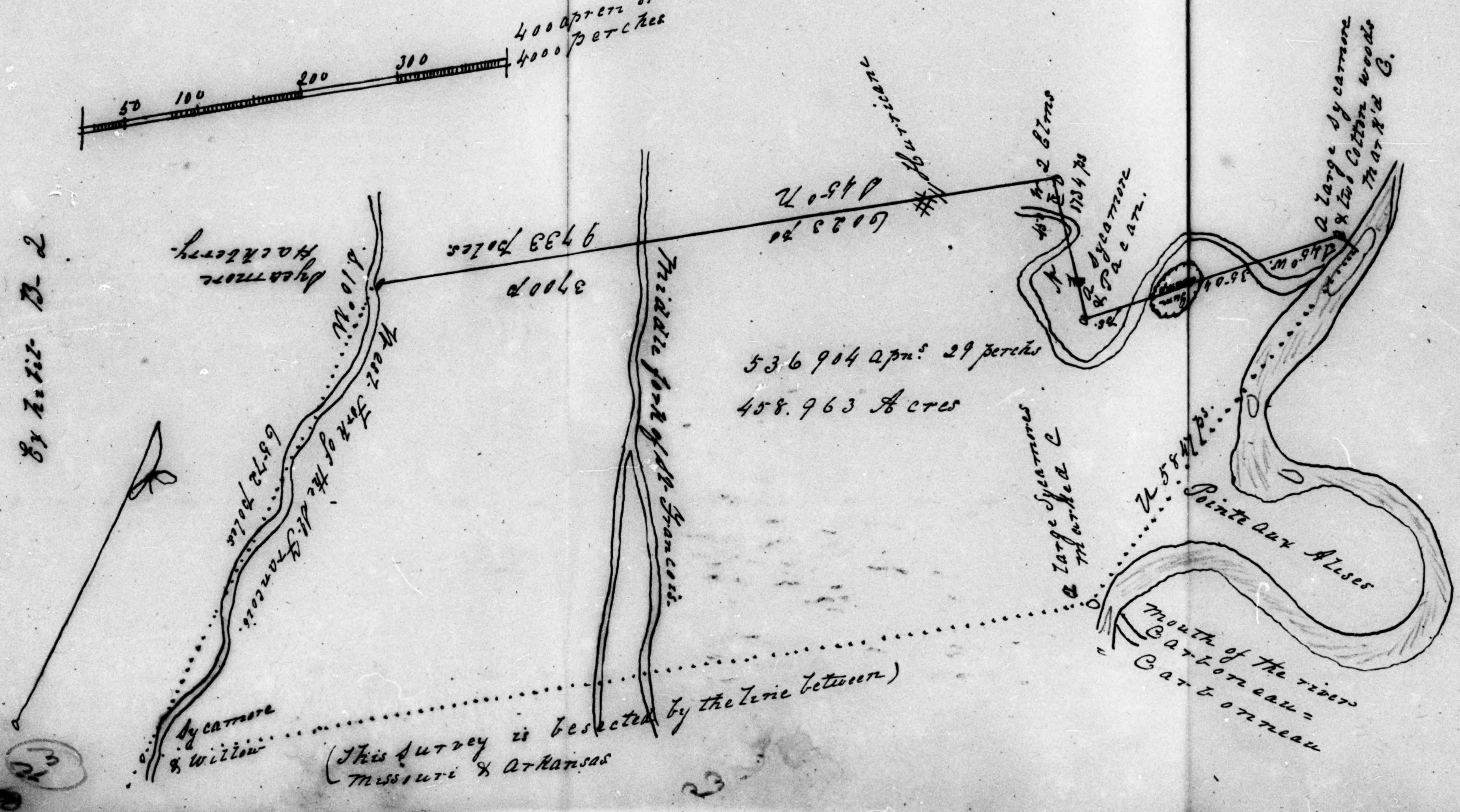
(signed) Carlos Trudeau

No 134 Buckingham &c vs McLean



No 139. Glenn & Thruston
U. States
page 25:

13
By Letter B-2

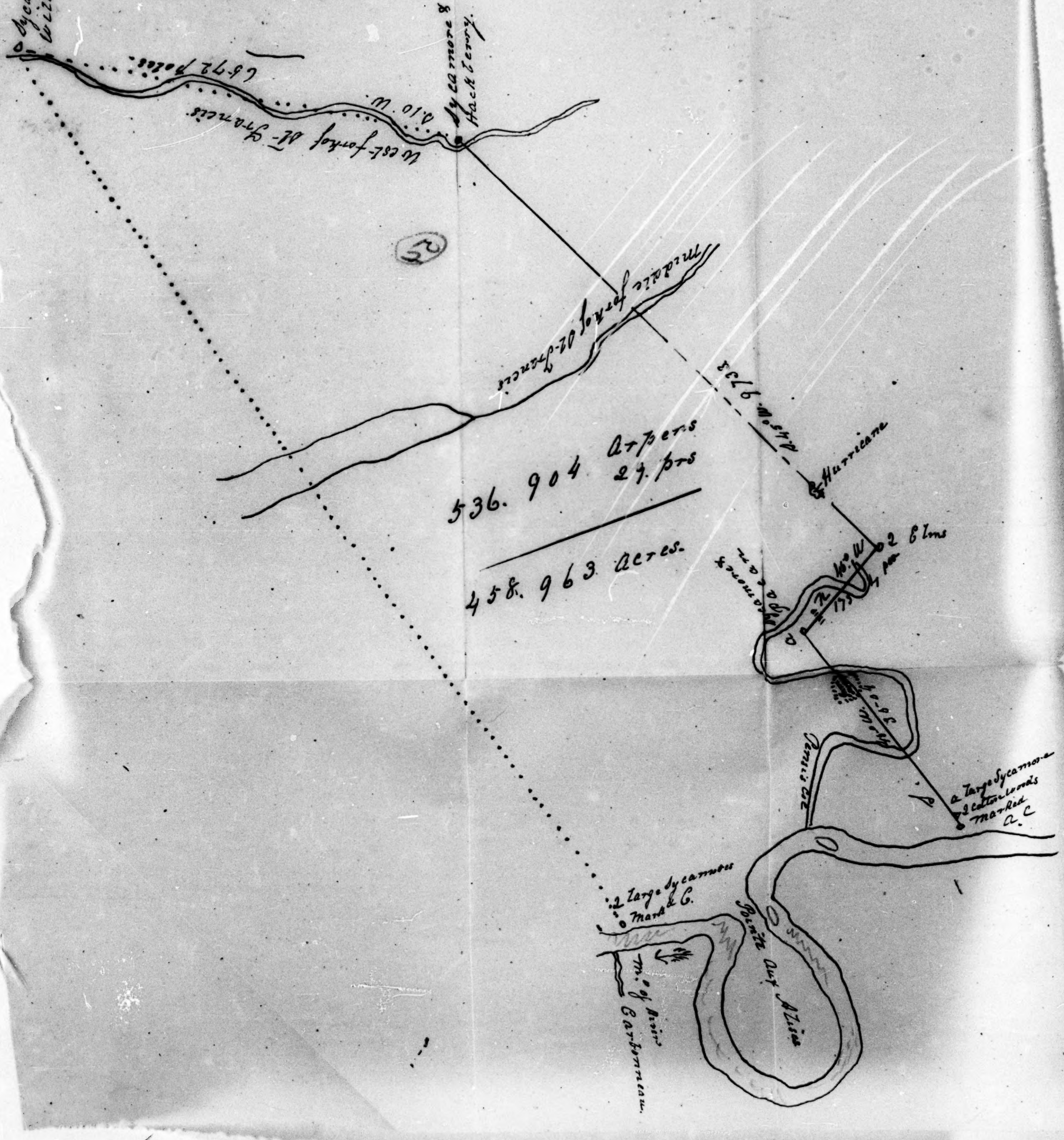


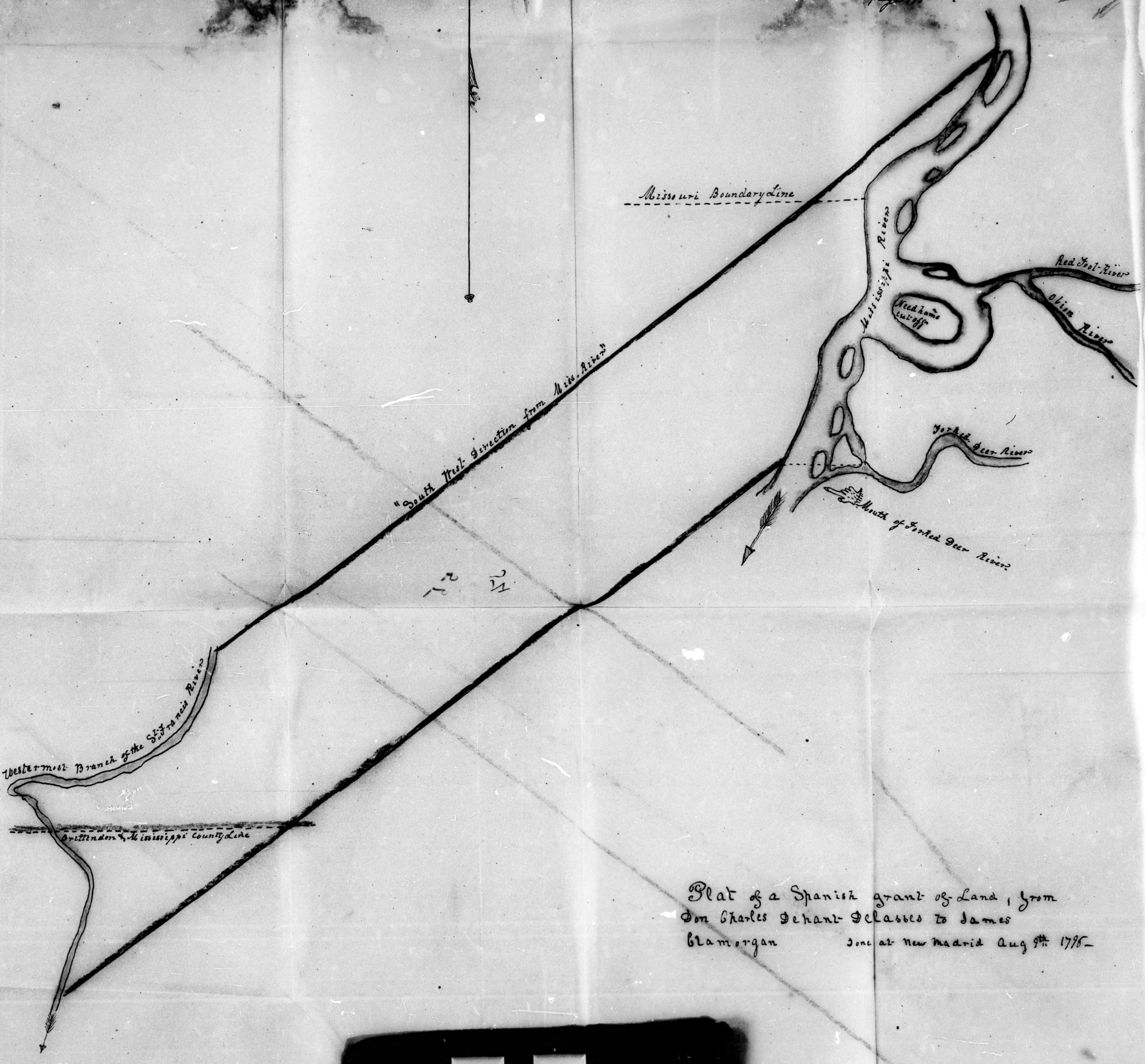
Territory of Louisiana
Distᵗ of New Madrid

Ex. B-2-

No. 139- Glenn & Thruston vs U. States page 102-

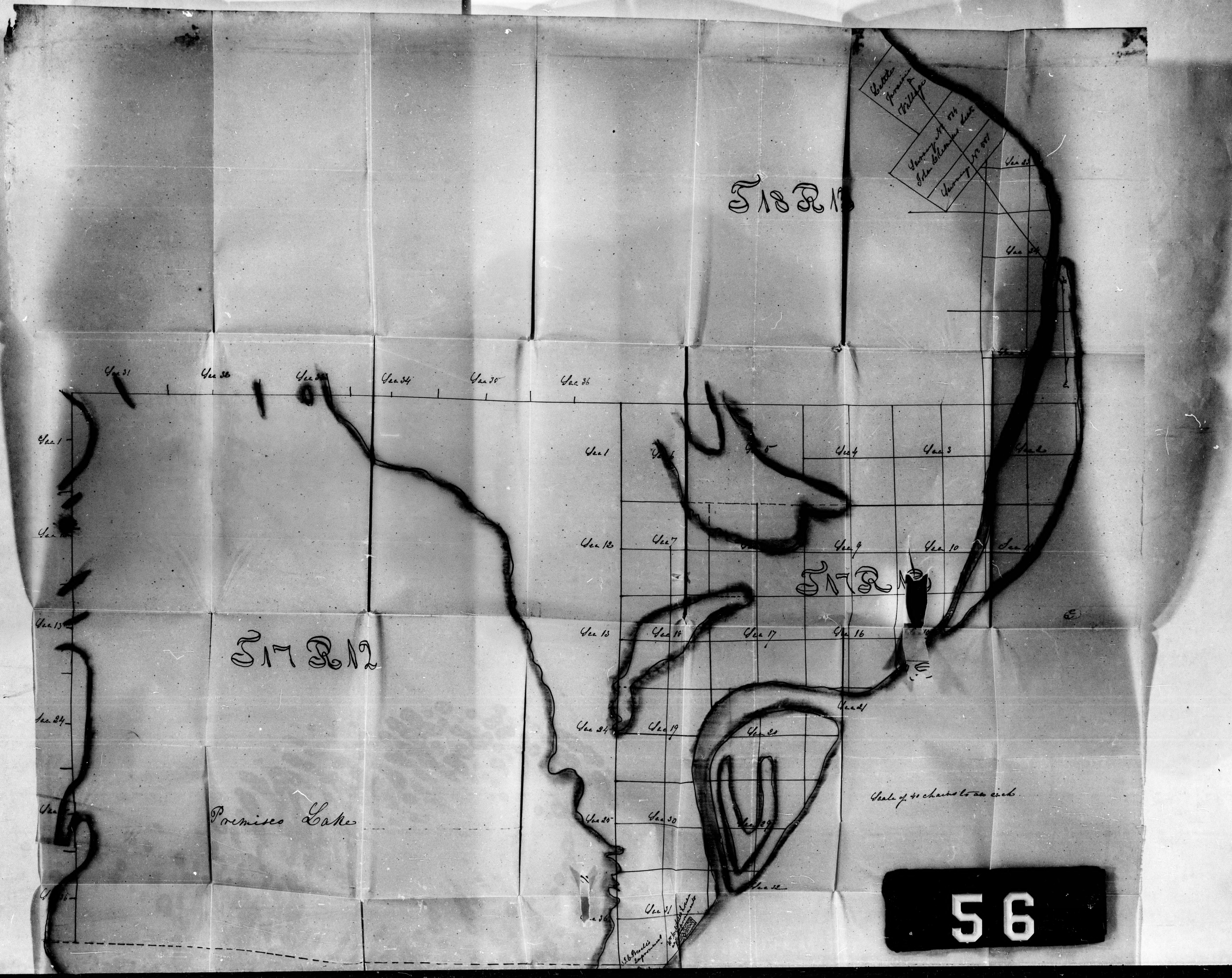
James Clamorgan-



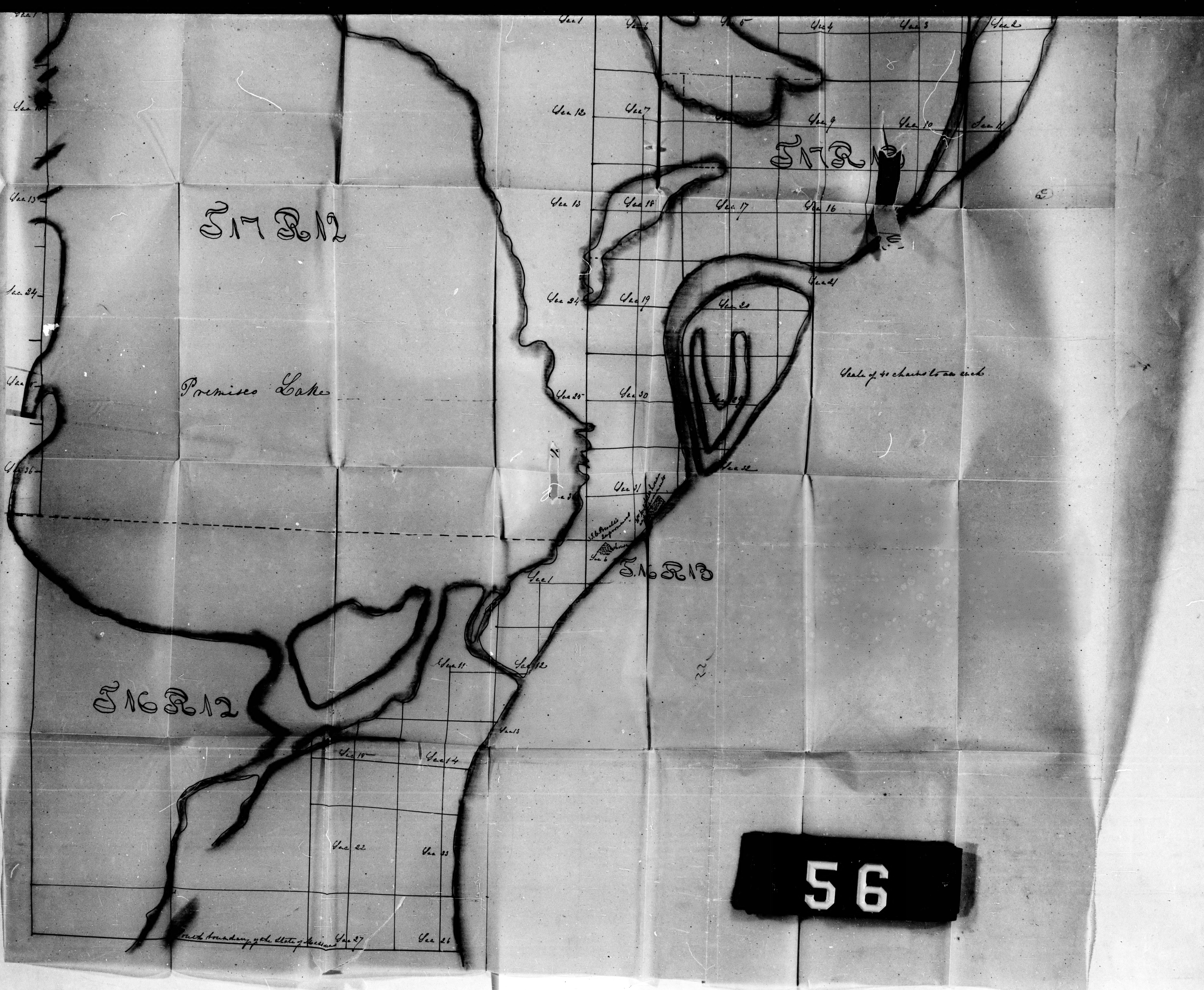


page 111—
Missouri Boundary Line
Mississippi River
Red Fool River
Obion River
Needhams cut-off
Forked Deer River
Mouth of Forked Deer River
"South West direction from Miss. River"
Westermost Branch of the St. Francis River
Crittenden & Mississippi County Line

Plat of a Spanish grant of Land, from
Don Charles Dehant Delassus to James
Clamorgan   done at New Madrid Aug 9th 1796—


Catholic [illegible] Village
Survey No 584 John Clemence Est.
Survey No 585
T18 R13
Sec 23
Sec 24
Sec 31
Sec 32
Sec 33
Sec 34
Sec 35
Sec 36
Sec 1
Sec 6
Sec 5
Sec 4
Sec 3
Sec 2
Sec 12
Sec 7
Sec 9
Sec 10
Sec 11
T17 R13
Sec 13
Sec 18
Sec 17
Sec 16
T17 R12
Sec 24
Sec 19
Sec 20
Sec 21
Sec 25
Sec 30
Sec 29
Sec 32
Sec 36
Sec 31
Premises Lake
Scale of 40 chains to an inch
I. C. Powell's Improvement
Wm [illegible] house and improvements

56


T 17 R 12
T 17 R 13
T 16 R 12
T 16 R 13
Premises Lake
Scale of 40 chains to an inch
Sec 1
Sec 6
Sec 5
Sec 4
Sec 3
Sec 2
Sec 12
Sec 7
Sec 9
Sec 10
Sec 11
Sec 13
Sec 18
Sec 17
Sec 16
Sec 21
Sec 24
Sec 19
Sec 20
Sec 25
Sec 30
Sec 29
Sec 32
Sec 31
Sec 36
J. C. Brook's Improvement
house
Sec 6
Sec 1
Sec 11
Sec 12
Sec 13
Sec 14
Sec 22
Sec 23
Sec 27
Sec 26
South boundary of the State of Missouri

56